

AMENDED IN SENATE APRIL 6, 2006

SENATE BILL

No. 1473

Introduced by Senator Figueroa

February 23, 2006

An act to amend Section ~~473.3~~ of 473.1 of, and to add Chapter 16 (commencing with Section 9000) to Division 3 of, the Business and Professions Code, and to amend Section ~~94999~~ repeal Chapter 7 (commencing with Section 94700) of Part 59 of the Education Code, relating to education, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1473, as amended, Figueroa. ~~Education: private postsecondary and vocational education~~ *Private Postsecondary and Student Protection Act.*

(1) The existing Private Postsecondary and Vocational Education Reform Act of 1989, which is administered by the Bureau for Private Postsecondary and Vocational Education in the Department of Consumer Affairs, generally effectuates legislative intent to ensure minimum standards of instructional quality and institutional stability in private postsecondary educational institutions. ~~Existing law establishes the California Postsecondary Education Commission as the statewide postsecondary education planning and coordinating agency and as an adviser to the Legislature and the Governor. Existing law establishes the Joint Committee on Boards, Commissions and Consumer Protection and specifies its duties with respect to the review of various boards and commissions. Existing law requires the committee, in cooperation with the commission, in 2002 and every 4 years thereafter, to hold a public hearing to receive testimony from the Director of Consumer Affairs, the Bureau for Private Postsecondary~~

~~and Vocational Education, private postsecondary educational institutions regulated by the bureau, and students of those institutions. Under existing law, the bureau shall have the burden of demonstrating a compelling need for the continued existence of the bureau and its regulatory program, and also that its function is the least restrictive regulation consistent with public health, safety, and welfare.~~

The existing act establishes the Private Postsecondary and Vocational Education Administration Fund and the continuously appropriated Student Tuition Recovery Fund. The existing act specifies that certain violations of its provisions are subject to civil penalties and that certain willful violations of the act are punishable as crimes. A provision of the act provides for it to become inoperative on July 1, 2007, and provides for its repeal on January 1, 2008.

~~This bill would change the intervals and dates that the committee is required to hold public hearings to receive testimony from the Director of Consumer Affairs, the Bureau for Private Postsecondary and Vocational Education, and others from every four years starting in 2002 to unspecified dates and intervals repeal the Private Postsecondary and Vocational Education Reform Act of 1989, and instead recast and revise its provisions as the Private Postsecondary Education and Student Protection Act, which the bill would place in the Business and Professions Code. The new act established by the bill would continue the existence of the Private Postsecondary and Vocational Education Administration Fund and the Student Tuition Recovery Fund, and would also provide that certain violations of the new act would be punishable as crimes.~~

~~(2) Existing law establishes the Private Postsecondary and Vocational Education Administration Fund and the continuously appropriated Student Tuition Recovery Fund. Existing law also specifies that certain violations of the Private Postsecondary and Vocational Education Reform Act are subject to civil penalties and that certain willful violations of the act are punishable as crimes.~~

~~Under existing law, the Private Postsecondary and Vocational Education Reform Act of 1989 becomes inoperative on July 1, 2007, and is repealed unless a later enacted statute becomes operative on or before January 1, 2008.~~

~~This bill would change this inoperative date to an unspecified date, thus extending the operation of the act, thereby making an appropriation by extending the existence of the continuously appropriated Student Tuition Recovery Fund.~~

~~(2) Existing law establishes the Private Postsecondary and Vocational Education Administration Fund and the continuously appropriated Student Tuition Recovery Fund. Existing law also specifies that certain violations of the Private Postsecondary and Vocational Education Reform Act are subject to civil penalties and that certain willful violations of the act are punishable as crimes.~~

~~Under existing law, the Private Postsecondary and Vocational Education Reform Act of 1989 becomes inoperative on July 1, 2007, and is repealed unless a later enacted statute becomes operative on or before January 1, 2008.~~

The bill would provide that the Private Postsecondary and Student Protection Act would become inoperative, and be repealed, on unspecified dates, thereby extending the operation of the act indefinitely, and making an appropriation by also extending indefinitely the existence of the continuously appropriated Student Tuition Recovery Fund.

By extending the operation of the provisions of the act that establish crimes, the bill would impose a state-mandated local program.

~~—(3)~~

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 473.1 of the Business and Professions
- 2 Code is amended to read:
- 3 473.1. This chapter shall apply to all of the following:
- 4 (a) Every board, as defined in Section 22, that is scheduled to
- 5 become inoperative and to be repealed on a specified date as
- 6 provided by the specific act relating to the board.
- 7 (b) The Bureau for *Private* Postsecondary~~—and—Vocational~~
- 8 Education. For purposes of this chapter, “board” includes the
- 9 bureau.
- 10 (c) The Cemetery and Funeral Bureau.

1 SECTION 1. Chapter 16 (commencing with Section 9000) is
2 added to Division 3 of the Business and Professions Code, to
3 read:

4
5 CHAPTER 16. PRIVATE POSTSECONDARY EDUCATION AND
6 STUDENT PROTECTION ACT

7
8 Article 1. General Provisions
9

10 9000. This chapter shall be known, and may be cited, as the
11 Private Postsecondary Education and Student Protection Act.

12 9001. The bureau is subject to the sunset review process
13 conducted by the Joint Committee on Boards, Commissions, and
14 Consumer Protection pursuant to Division 1.2 (commencing with
15 Section 473). Notwithstanding that this chapter does not specify
16 that it will become inoperative on a specified date, the analyses,
17 reports, public hearings, evaluations, and determinations
18 required to be prepared, conducted, and made pursuant to
19 Division 1.2 (commencing with Section 473) shall be prepared,
20 conducted, and made in during the 2011 calendar year and every
21 four years thereafter as long as this chapter is operative.

22
23 Article 2. Definitions
24

25 9010. “Academic year,” for a degree-granting institution,
26 means a period including a minimum of 30 weeks of instruction.

27 9011. “Accredited” means that an institution has been
28 recognized or approved as meeting the standards established by
29 an accrediting agency recognized by the United States
30 Department of Education, or the Committee of Bar Examiners
31 for the State of California. It does not include those institutions
32 that have applied for accreditation, or are identified by
33 accrediting associations as candidates for accreditation or have
34 provisional accreditation.

35 9012. “Agency” means any person or business entity,
36 regardless of the form of organization, that employs, or in any
37 manner contracts with, one or more agents. “Agency” does not
38 include an institution.

39 9013. “Agency approval” means a written document issued
40 by the bureau authorizing a business entity or an institution to

1 *engage in the recruitment of students for enrollment in private*
2 *postsecondary and vocational institutions approved under this*
3 *chapter.*

4 9014. “Agent” means any person who, at a place away from
5 the institution’s premises or site of instruction, but within the
6 United States, for consideration, solicits, promotes, advertises,
7 offers, or attempts to secure enrollment for an institution, refers
8 any person to that institution, either for enrollment or to receive
9 a solicitation for enrollment, or accepts application fees or
10 admissions fees for education in that institution. Administrators
11 and faculty who make informational public appearances, but
12 whose primary task does not include service as a paid recruiter,
13 are not agents. Publishers of directories that contain general
14 information on institutions and their offerings and who do not
15 otherwise engage in any of the activities described in this section
16 are not agents.

17 9015. “Annual report” means the report required to be filed
18 pursuant to Section 94861.

19 9016. “Agent’s permit” means a nontransferable written
20 document issued to an agent pursuant to this chapter by the
21 bureau.

22 9017. “Applicant” means a new institution that has submitted
23 an application but has not been evaluated by the bureau.

24 9019. “Branch” means a site other than the main location or
25 a satellite. Only educational services approved at the main
26 location may be offered at the branch.

27 9020. “Bureau” means the Bureau for Private Postsecondary
28 Education in the Department of Consumer Affairs established
29 pursuant to Section 9090.

30 9021. “Business day” means the following:

31 (a) Except as provided in subdivision (b), a day on which that
32 student is scheduled to attend a class session.

33 (b) For home-study or correspondence courses, any calendar
34 day except Saturday, Sunday, or any holiday enumerated in
35 Section 6700 of the Government Code.

36 9022. “Change of location” means a move of up to 25 miles
37 of the location at which an institution offers any education,
38 training, or instruction.

39 9023. “Class” means a subject, such as English or
40 mathematics, that is taught as part of a course of instruction.

1 “Class session” means the part of a day that an institution
2 conducts instruction or training in a particular class, such as an
3 hour of instruction in English or mathematics offered on a
4 particular day of the week.

5 9024. (a) Except as provided in subdivision (b), “continuing
6 education” means instruction in any of the following
7 circumstances:

8 (1) Only in subjects licensees are required to take as a
9 condition of continued licensure and solely for that purpose.

10 (2) Only in subjects necessary to continue to practice or work
11 in a profession such as law or medicine and solely for that
12 purpose.

13 (3) To persons who are already in a particular profession,
14 trade, or job category for the sole purpose of enhancing their
15 skills or knowledge within that particular profession, trade, or
16 job category.

17 (b) “Continuing education” does not include any of the
18 following:

19 (1) Vocational diploma programs.

20 (2) Degree programs.

21 (3) An educational service any part of the charge for which is
22 paid from the proceeds of a loan or grant subject to a
23 governmental student financial aid program.

24 9025. “Correspondence school” or “home study school”
25 means any institution that provides correspondence lessons for
26 study and completion by a student at a location separate from the
27 institution, including those institutions which offer that
28 instruction by correspondence in combination with in-residence
29 instruction.

30 9026. “Course of study” means either a single course or a set
31 of related courses for which a student enrolls.

32 9027. “Default,” as used in this chapter, with respect to a
33 loan under the Stafford Student Loan program or Supplemental
34 Loans for Students program means the failure of a borrower to
35 make an installment payment when due, or to meet other terms of
36 the promissory note under circumstances where the guarantee
37 agency finds it reasonable to conclude that the borrower no
38 longer intends to honor the obligation to repay, provided that
39 this failure persists for 180 days for a loan repayable in monthly
40 installments, or 240 days for a loan repayable in less frequent

1 *installments. “Default,” as used in this section, with respect to a*
2 *program directly or indirectly financed by the California*
3 *Educational Facilities Authority, means the failure of a borrower*
4 *to make an installment payment when due, or to meet other terms*
5 *of the loan, within that period and under the circumstances*
6 *determined by the California Educational Facilities Authority*
7 *with respect to that program.*

8 9028. “Degree” means any type of degree or honorary
9 degree or title of any designation, mark, appellation, series of
10 letters or words such as, but not limited to, associate, bachelor,
11 master, doctor, or fellow which signifies, purports, or is
12 generally taken to signify satisfactory completion of the
13 requirements of an academic, educational, technological, or
14 professional program of study beyond the secondary school level
15 or is an honorary title conferred for recognition of some
16 meritorious achievement.

17 9029. “Degree title” means the designated subject area of
18 study that also appears on the face of the document awarded to a
19 student signifying the conferring of a “degree.”

20 9030. “Diploma” means any diploma, certificate, document,
21 or other writing in any language other than a degree which
22 signifies, purports, or is generally taken to signify satisfactory
23 completion of the requirements of an academic, educational,
24 technological, or professional program of study beyond the
25 secondary school level.

26 9031. “Director” means the Director of Consumer Affairs.

27 9032. “Document or record” means any test score, grade,
28 record of grades, attendance record, record indicating student
29 course completion or employment, financial information,
30 including any financial report required to be filed pursuant to
31 Sections 94861 and 94862, information or records relating to the
32 student’s eligibility for financial assistance or attendance at the
33 institution, or any other record or document required by this
34 chapter or by the bureau.

35 9033. “Education,” “educational services,” or “educational
36 program” includes, but is not necessarily limited to, any class,
37 course, or program of training, instruction, or study.

38 9034. “Employment” means either of the following:

1 (a) *Full-time employment for at least 32 hours per week for a*
2 *period of at least 60 days in the occupations or job titles to which*
3 *the program of instruction is represented to lead.*

4 (b) *Part-time employment for at least 17.5 hours, but less than*
5 *32 hours, per week for a period of at least 60 days in the*
6 *occupations or job titles to which the program of instruction is*
7 *represented to lead, provided the student completes a*
8 *handwritten statement at the beginning of the program and at the*
9 *end of the program which states that the student's educational*
10 *objective is part-time employment. The institution shall not*
11 *require that any student complete such a statement or provide*
12 *any incentive, financial or otherwise, to any student for signing*
13 *the statement.*

14 9035. *“Equipment” includes all textbooks, supplies,*
15 *materials, implements, tools, machinery, computers, electronic*
16 *devices, or any other goods related to any education, training, or*
17 *instruction, or an agreement for educational services or a course*
18 *of instruction.*

19 9036. *“ESL instruction” means any educational service*
20 *involving instruction in English as a second language.*

21 9037. *“Hearing” means a hearing pursuant to the*
22 *requirements of either Section 94965 or 94975.*

23 9038. *“Institution” means any private postsecondary*
24 *educational institution. An “institution” includes its branch and*
25 *satellite campuses.*

26 9039. *“Institutional approval” means an institution that has*
27 *been evaluated by the bureau and has been found to be in*
28 *compliance with the bureau's standards pursuant to this chapter.*

29 9040. *“Instruction” includes any specific, formal*
30 *arrangement by an institution or its enrollees to participate in*
31 *learning experiences in which the institution's faculty or*
32 *contracted instructors present a planned curriculum appropriate*
33 *to the enrollee's educational program.*

34 9041. *“Intensive English language program” means an*
35 *educational service approved by the United States Immigration*
36 *and Naturalization Service solely to provide English instruction*
37 *to international students for a designated period of study in the*
38 *United States and that offers instruction that is nondegree*
39 *granting, nonvocational, and is not represented to lead to, or*
40 *offered for the purpose of preparing a student for employment in,*

1 *any occupation or job title. Additionally, the educational service*
2 *shall meet both of the following criteria:*

3 *(a) Students enrolling in this type of educational service are*
4 *not residents of this state or citizens of the United States and are*
5 *not eligible for federal or state financial aid, including loans.*

6 *(b) Coursework in this type of educational service is limited to*
7 *English instruction in all areas of language skills development,*
8 *including reading, writing, speaking, listening, grammar, and*
9 *test preparation.*

10 9042. *“License and exam preparation” means that the*
11 *educational program is either of the following:*

12 *(a) Designed to assist students to prepare for an examination*
13 *for licensure.*

14 *(b) Offered for the sole purpose of providing continuing*
15 *education in subjects licensees are required to take as a*
16 *condition of continued licensure.*

17 9043. *“Licensure” includes any license, certificate, permit,*
18 *or similar credential that a person must hold to lawfully engage*
19 *in any occupation or activity.*

20 9044. *“Main location” or “main site” means the institution’s*
21 *primary teaching location. If an institution operates at only one*
22 *site, that site shall be considered its main location or main site.*

23 9046. *“Non-WASC regionally accredited institution” means*
24 *a degree-granting institution that has been accredited by one of*
25 *the non-WASC regional accrediting agencies, as designated in*
26 *Article 7 (commencing with Section 9130).*

27 9047. *“Occupational Associate Degree,” “Associate of*
28 *Occupational Studies,” or “Associate of Applied Science”*
29 *designated by terms including, but not limited to, AOS (Associate*
30 *Occupational Studies), AAS (Associate Applied Science), AST*
31 *(Associate Specialist Technical), or ASB (Associate Specialist*
32 *Business) means an associate degree that may be awarded to*
33 *students who complete an occupational program that provides*
34 *preparation for employment in an occupational field.*

35 9048. *“Out-of-state school” means any private*
36 *postsecondary or vocational educational institution offering*
37 *career or job training programs, including both an in-residence*
38 *institution and a home-study institution that has its place of*
39 *instruction or its principal location outside the boundaries of the*
40 *state, or that offers or conducts programs of instruction or*

1 subjects on premises maintained by the school outside the
2 boundaries of the state, or that provides correspondence or
3 home-study lesson materials from a location outside the
4 boundaries of this state, or that evaluates completed lesson
5 materials or otherwise conducts its evaluation service from a
6 location outside the boundaries of this state, or that otherwise
7 offers or provides California students with programs of
8 instruction or subjects through activities engaged in or
9 conducted outside the boundaries of the state.

10 9049. "Owner" means any person who has a legal or
11 equitable interest in 10 percent or more of an institution's stock
12 or assets.

13 9050. "Parent corporation" means a corporation that owns
14 more than 80 percent of the stock of the institution whose
15 financial resources are at issue.

16 9051. "Person" means a natural person or any business
17 entity, regardless of the form or organization.

18 9052. (a) "Placement rate" means the percentage of students
19 who fulfilled the provisions of the following two paragraphs:

20 (1) Began the program, did not cancel pursuant to Section
21 94867, and were originally scheduled at the time of enrollment to
22 complete the program during the applicable time period
23 described in subparagraph (A) of paragraph (1).

24 (2) Completed the program, within the applicable time period
25 described in subparagraph (A) and started employment within
26 six months of completing the program or, if employment requires
27 taking a state licensure examination for which only graduates of
28 the program may apply, then did either of the following:

29 (A) Started employment within six months of the date on which
30 the state licensing agency announces the results of the first
31 licensure examination reasonably available to students who
32 completed the program.

33 (B) Started employment within six months of the next
34 reasonably available licensure examination date for any student
35 who did not receive passing results on the first exam. The time
36 period determined pursuant to this subparagraph shall not
37 exceed 10 months beyond the date of completion of the program
38 of instruction.

39 (b) The institution shall retain a record of the date of the first
40 reasonably available licensure exam following the completion

1 *date of each student, the date the licensure agency announces the*
2 *results of the first reasonably available licensure exam, and the*
3 *date of the next reasonably available licensure exam for each*
4 *student who did not pass the first exam.*

5 9053. “Private postsecondary educational institution” means
6 *any person doing business in California that offers to provide or*
7 *provides, for a tuition, fee, or other charge, any instruction,*
8 *training, or education under any of the following circumstances:*

9 (a) *A majority of the students to whom instruction, training, or*
10 *education is provided during any 12-month period is obtained*
11 *from, or on behalf of, students who have completed or terminated*
12 *their secondary education or are beyond the age of compulsory*
13 *high school attendance.*

14 (b) *More than 50 percent of the revenue derived from*
15 *providing instruction, training, or education during any*
16 *12-month period is obtained from, or on behalf of, students who*
17 *have completed or terminated their secondary education or are*
18 *beyond the age of compulsory high school attendance.*

19 (c) *More than 50 percent of the hours of instruction, training,*
20 *or education provided during any 12-month period is provided to*
21 *students who have completed or terminated their secondary*
22 *education or are beyond the age of compulsory high school*
23 *attendance.*

24 (d) *A substantial portion, as determined by the bureau, by*
25 *regulation, of the instruction, training, or education provided is*
26 *provided to students who have completed or terminated their*
27 *secondary education or are beyond the age of compulsory high*
28 *school attendance.*

29 9054. “Program” or “program of instruction” means a
30 *program of training, set of related courses, or education for*
31 *which a student enrolls.*

32 9055. “Program approval” means a program that has been
33 *evaluated by the bureau and has been found to be in compliance*
34 *with the bureau’s standards pursuant to this chapter.*

35 9056. “Registered,” “registered institution,” or “registered
36 *educational service” means any individual or organization that*
37 *offers an educational service and is registered to operate under*
38 *Article 10 (commencing with Section 9200).*

1 9057. “Reporting period” means the institution’s fiscal year
2 or any year period designated by the bureau to be covered in the
3 institution’s annual report.

4 9058. “Representative” means an employee, an agent as
5 defined in Section 2295 of the Civil Code, an agent subject to
6 Section 94940, an agency subject to Section 94942, or any
7 person who, for compensation, does either of the following:

8 (a) Solicits, promotes, advertises, or refers or recruits students
9 or prospective students for an institution.

10 (b) Is involved with enrollment, admissions, student
11 attendance, administration, financial aid, instruction, or job
12 placement assistance on behalf of an institution.

13 9059. “Satellite” means an auxiliary classroom or a teaching
14 site.

15 9060. “Site” means a main location, branch, or satellite
16 campus.

17 9061. “State approved national accrediting agency” means a
18 regional or national accrediting agency recognized by the United
19 States Department of Education.

20 9062. “Time period” means the two most recent calendar
21 years that ended at least eight months before the end of the
22 institution’s applicable reporting period.

23 9063. “To offer” includes, in addition to its usual meanings,
24 advertising, publicizing, soliciting, or encouraging any person,
25 directly or indirectly, in any form, to perform the act described.

26 9064. “To operate” an educational institution, or like term,
27 means to establish, keep, or maintain any facility or location in
28 this state where, or from or through which, educational services
29 are offered or educational degrees or diplomas are offered or
30 granted.

31 9065. “Total charge” means the total charge for a course of
32 instruction or other education, instruction, or training, including
33 the charge for tuition, equipment, finance charges, and all other
34 fees, charges, costs, and expenses.

35 9066. “Vocational diploma program” means an educational
36 program having all of the following characteristics:

37 (a) The educational program consists of a job-training
38 program or other instruction, training, or education that the
39 institution represents will lead to, fit, or prepare students for
40 employment in any occupation.

1 (b) The program is offered to students who do not possess a
2 bachelor's or graduate degree in the field of training.

3 (c) Students who complete all or a portion of the program are
4 awarded a diploma, certificate, or occupational associate
5 degree.

6
7 Article 3. Exemptions
8

9 9075. The following institutions and programs are exempt
10 from the requirements of the Act and regulation by the Bureau:

11 (a) Institutions exclusively offering instruction at any or all
12 levels from preschool through grade 12.

13 (b) Institutions offering education solely avocational or
14 recreational in nature, and institutions offering this education
15 exclusively.

16 (c) Institutions offering education sponsored by a bona fide
17 trade, business, professional, or fraternal organization, solely for
18 that organization's membership.

19 (d) Postsecondary or vocational educational institutions
20 established, operated, and governed by the federal government
21 or by this state, or its political subdivisions.

22 (e) Institutions offering continuing education where the
23 institution or the program is approved, certified, or sponsored by
24 any of the following:

25 (1) A government agency, other than the bureau, that licenses
26 persons in a particular profession, trade, or job category.

27 (2) A state-recognized professional licensing body, such as the
28 State Bar of California, that licenses persons in a particular
29 profession, trade, or job category.

30 (3) A bona fide trade, business, or professional organization.

31 (f) A nonprofit institution owned, controlled, and operated and
32 maintained by a bona fide church, religious denomination, or
33 religious organization comprised of multidenominational
34 members of the same well-recognized religion, lawfully
35 operating as a nonprofit religious corporation pursuant to Part 4
36 (commencing with Section 9110) of Division 2 of Title 1 of the
37 Corporations Code, if the education is limited to instruction in
38 the principles of that church, religious denomination, or
39 religious organization, or to courses offered pursuant to Section
40 2789 of the Business and Professions Code, and the diploma or

1 degree is limited to evidence of completion of that education, and
2 the meritorious recognition upon which any honorary degree is
3 conferred is limited to the principles of that church, religious
4 denomination, or religious organization. Institutions operating
5 under this paragraph shall offer degrees and diplomas only in
6 the beliefs and practices of the church, religious denomination,
7 or religious organization. The enactment of this paragraph
8 expresses the legislative intent that the state shall not involve
9 itself in the content of degree programs awarded by any
10 institution operating under this paragraph, as long as the
11 institution awards degrees and diplomas only in the beliefs and
12 practices of the church, religious denomination, or religious
13 organization. Institutions operating under this paragraph shall
14 not award degrees in any area of physical science. Any degree or
15 diploma granted in any area of study under these provisions
16 shall contain on its face, in the written description of the title of
17 the degree being conferred, a reference to the theological or
18 religious aspect of the degree's subject area. Degrees awarded
19 under this paragraph shall reflect the nature of the degree title,
20 such as "associate of religious studies," or "bachelor of
21 religious studies," or "master of divinity" or "doctor of
22 divinity." The use of the degree titles "associate of arts" or
23 "associate of science," "bachelor of arts" or "bachelor of
24 science," "master of arts" or "master of science," or "doctor of
25 philosophy" or "Ph.D." shall only be awarded by institutions
26 approved to operate under Article 8 (commencing with Section
27 94900) or meeting the requirements for an exemption under
28 Section 94750. The enactment of this paragraph is intended to
29 prevent any entity claiming to be a nonprofit institution owned,
30 controlled, and operated and maintained by a bona fide church,
31 religious denomination, or religious organization comprised of
32 multidenominational members of the same well- recognized
33 religion, lawfully operating as a nonprofit religious corporation
34 pursuant to Part 4 (commencing with Section 9110) of Division 2
35 of Title 1 of the Corporations Code, from marketing and granting
36 degrees or diplomas that are represented as being linked to their
37 church, religious denomination, or religious organization, but
38 which, in reality, are degrees in secular areas of study. An
39 institution operating under this paragraph shall file annually
40 with the bureau evidence to demonstrate its status as a nonprofit

1 *religious corporation under the Corporations Code. A college or*
2 *university operating under this paragraph shall file every three*
3 *years with the bureau evidence to demonstrate its status as a*
4 *nonprofit religious corporation under the Corporations Code.*

5 *(g) (1) Public institutions accredited by the Accrediting*
6 *Commission for Senior Colleges and Universities or the*
7 *Accrediting Commission for Community and Junior Colleges of*
8 *the Western Association of Schools and Colleges.*

9 *(2) Institutions accredited by the Accrediting Commission for*
10 *Senior Colleges and Universities or the Accrediting Commission*
11 *for Community and Junior Colleges of the Western Association*
12 *of Schools and Colleges that are incorporated and lawfully*
13 *operating as a nonprofit public benefit corporation pursuant to*
14 *Part 2 (commencing with Section 5110) of Division 2 of Title 1 of*
15 *the Corporations Code and that are not managed by any entity*
16 *for profit.*

17 *(3) For-profit institutions accredited by the Accrediting*
18 *Commission for Senior Colleges and Universities or the*
19 *Accrediting Commission for Community and Junior Colleges of*
20 *the Western Association of Schools and Colleges.*

21 *(h) Institutions that exclusively offer programs that cost one*
22 *thousand dollars (\$1,000) or less.*

23 *9076. (a) Article 4 (commencing with Section 94770), Article*
24 *8 (commencing with Section 94900), the last sentence of*
25 *paragraph (6) of subdivision (b) of Section 94739, subdivision*
26 *(c) of Section 94831, and Sections 94802, 94830, 94835, 94836,*
27 *94840, 94846, 94934, 94942, 94944, 94945, 94946, 94947,*
28 *94965, and 94970, shall not apply to an institution that is a*
29 *nationally accredited agency recognized by the United States*
30 *Department of Education if the bureau has determined,*
31 *subsequent to an onsite qualitative review and assessment of the*
32 *institution conducted at least once every three years, as*
33 *described in Section 94901, that the institution is in compliance*
34 *with all of the following:*

35 *(1) The institution meets the financial responsibility*
36 *requirements set forth in subdivision (b) of Section 94804.*

37 *(2) The faculty of the institution meets the requirements set*
38 *forth in paragraph (2) of subdivision (a) of Section 94900.*

1 (3) *The institution's cohort default rate on guaranteed student*
2 *loans does not exceed 15 percent for the three most recent years*
3 *as published by the United States Department of Education.*

4 (4) *The institution has operated in this state for at least 15*
5 *years.*

6 (5) *The institution submits to the bureau copies of the most*
7 *recent IRS Form 990 and the Integrated Postsecondary*
8 *Education Data System Report of the United States Department*
9 *of Education and the accumulated default rate.*

10 (6) *The institution pays fees in accordance with Section 94932.*

11 (7) *The institution exclusively confers degrees upon the*
12 *completion of a course of study of two or more years. Institutions*
13 *that satisfy the requirements of this subdivision may also:*

14 (A) *Teach state-mandated continuing education programs if*
15 *the institution offers a degree for which the continuing education*
16 *program is required.*

17 (B) *Teach prerequisite courses for admission to a degree*
18 *program offered at the institution.*

19 (8) *The institution has offered a masters, doctorate, or first*
20 *professional degree program for at least five years.*

21 (9) *The institution is incorporated and lawfully operates as a*
22 *nonprofit public benefit corporation pursuant to Part 2*
23 *(commencing with Section 5110) of Division 2 of Title 1 of the*
24 *Corporations Code and is not managed or administered by an*
25 *entity for profit.*

26 (b) *This section shall only apply to schools approved by the*
27 *Bureau to operate under its provisions prior to December 31,*
28 *2006.*

29
30 Article 3.5. *Programs Subject to Approval and Oversight by*
31 *Other State Entities*
32

33 9080. *Individual flight instructors not requiring any advance*
34 *payments, who do not negotiate a formal contract of*
35 *indebtedness, and who do not have an established place of*
36 *business other than their residences, shall be exempt from this*
37 *chapter.*

38 9081. *The following shall be exempt from the Act and*
39 *regulation by the Bureau, and subject to the authority of the*
40 *Department of Homeland Security:*

1 (a) All institutions that were certified to offer flight instruction
2 by the Federal Aviation Administration (FAA) and that operated
3 in California on December 31, 1990, pursuant to prior authority
4 of subdivision (a) or (b) of former Section 94311.

5 (b) Institutions certified to offer flight instruction by the FAA,
6 or its successor agency.

7
8 Article 4. Transition Provisions
9

10 9085. Any institution operating on December 31, 2006, with
11 a full, conditional, or temporary approval to operate, may
12 continue to operate under the terms of that approval until that
13 full, conditional, or temporary approval to operate expires or a
14 subsequent action is taken by the bureau that affects that
15 approval to operate, whichever comes first.

16 9086. Each regulation in Division 7.5 (commencing with
17 Section 70000) of Title 5 of the California Code of Regulations in
18 effect on December 31, 2006, shall be in full force and effect on
19 and after January 1, 2007, to the extent the regulation is
20 consistent with the relevant provisions in this chapter. The
21 bureau may, by emergency regulation, designate which
22 regulations are consistent with this chapter and which are not.

23
24 Article 5. Administration: General Powers and Authority
25

26 9090. There is a Bureau for Private Postsecondary Education
27 in the Department of Consumer Affairs. The bureau has the
28 responsibility for approving and regulating private
29 postsecondary educational institutions and programs. The
30 bureau shall have, as its objective, the development of a strong,
31 vigorous, and widely respected sector of private postsecondary
32 and vocational education.

33 9091. Protection of the public shall be the highest priority for
34 the Bureau for Private Postsecondary Education in exercising its
35 approval, regulatory, and disciplinary functions. Whenever the
36 protection of the public is inconsistent with other interests sought
37 to be promoted, the protection of the public shall be paramount.

38 9092. (a) The duty of administering and enforcing this
39 chapter is vested in the Director of Consumer Affairs, who may

1 *assign and delegate those duties to a bureau chief, subject to the*
2 *other provisions of this section.*

3 *(b) Every power granted to, or duty imposed upon, the bureau*
4 *under this chapter may be exercised or performed in the name of*
5 *the bureau, subject to any conditions and limitations the director*
6 *may prescribe. The bureau chief may redelegate any of those*
7 *powers or duties to his or her designee. The bureau chief shall be*
8 *appointed by the Governor and confirmed by the Senate, and is*
9 *exempt from the State Civil Service Act (Part 2 (commencing*
10 *with Section 18500) of Division 5 of Title 2 of the Government*
11 *Code).*

12 *(c) The director, in accordance with the State Civil Service*
13 *Act, may appoint and fix the compensation of clerical, inspection,*
14 *investigation, evaluation, and auditing personnel, as may be*
15 *necessary to carry out this chapter.*

16 *(d) The proceedings under this chapter shall be conducted by*
17 *the bureau in accordance with Chapter 5 (commencing with*
18 *Section 11500) of Part 1 of Division 3 of Title 2 of the*
19 *Government Code. To the extent of any conflict between any of*
20 *the provisions of this chapter and Chapter 5 (commencing with*
21 *Section 11500) of Part 1 of Division 3 of Title 2 of the*
22 *Government Code, that Chapter 5 shall prevail.*

23 *(e) The director shall appoint an advisory committee that shall*
24 *consist of representatives of institutions, student advocates, and*
25 *employers who hire students, among other parties. The advisory*
26 *committee shall be balanced to ensure that institutions and*
27 *student advocates have approximate equal representation.*
28 *Institutional representatives on the committee shall be in general*
29 *proportion to the types of institutions approved or registered*
30 *pursuant to this chapter and to the number of students served by*
31 *each type of institution. The advisory committee shall advise the*
32 *bureau concerning the bureau's administration, licensing, and*
33 *enforcement functions under this chapter.*

34 *9093. The bureau shall have the following functions and*
35 *responsibilities:*

36 *(a) The establishment of policies for the administration of this*
37 *chapter.*

38 *(b) The establishment of minimum criteria for the approval of*
39 *private postsecondary or vocational educational institutions to*

1 *operate in California and award degrees and diplomas, and for*
2 *the approval of institutions and programs that meet the criteria.*

3 *(c) Maintaining a Web site with information for consumers,*
4 *including the publication of an Internet directory of all private*
5 *postsecondary and vocational educational institutions and*
6 *programs approved to operate in California under this chapter.*

7 *(d) The bureau shall provide outreach to prospective and*
8 *current private postsecondary and vocational education students*
9 *and high school students, to provide them with information on*
10 *how best to select postsecondary or vocational schools, how to*
11 *enter into contracts and student enrollment agreements, how to*
12 *protect themselves in the postsecondary and vocational*
13 *education marketplace, and how to contact the bureau for*
14 *assistance if problems arise. The bureau may accomplish the*
15 *purposes of this section in cooperation with the department.*

16 9094. *(a) For the purposes of administration and*
17 *enforcement of this chapter, the Department of Consumer*
18 *Affairs, the bureau, and the director and officers and employees*
19 *of the department and the bureau, shall have all the powers and*
20 *authority granted under this chapter and under Division 1*
21 *(commencing with Section 100) and Division 1.5 (commencing*
22 *with Section 475) of the Business and Professions Code. In*
23 *addition to satisfying the approval, compliance, and enforcement*
24 *provisions of this chapter, the bureau shall also comply with and*
25 *exercise all authority granted by Division 1 (commencing with*
26 *Section 100) and Division 1.5 (commencing with Section 475) of*
27 *the Business and Professions Code.*

28 *(b) The bureau shall establish a regular inspection program,*
29 *which shall include announced and unannounced inspections of*
30 *a random sample of educational programs and institutions each*
31 *year. The bureau may conduct additional announced and*
32 *unannounced inspections as it deems necessary.*

33 *(c) If the bureau has determined, after an investigation, that*
34 *an institution has violated this chapter or any regulations*
35 *adopted by the bureau, the bureau shall have the authority to*
36 *initiate disciplinary or enforcement actions pursuant to Article*
37 *13 (commencing with Section 9300).*

38 9095. *(a) Any person, serving on a special committee of the*
39 *bureau pursuant to subdivision (i) of Section 94774, a visiting*
40 *committee pursuant to Section 94901, or any other peer review*

1 *body impaneled by the bureau and who provides information to*
2 *the bureau or its staff in the course and scope of evaluating any*
3 *institution subject to this chapter or who testifies at any*
4 *administrative hearing arising under this chapter, is entitled to a*
5 *defense by, and indemnification from, the bureau to any action*
6 *arising out of information or testimony to the bureau which that*
7 *person would have if he or she were a public employee.*

8 *(b) Any defense by, or indemnification from, the bureau, as*
9 *specified in subdivision (a) shall be solely with respect to that*
10 *claim or action pursuant to Article 4 (commencing with Section*
11 *825) of Chapter 1 of Part 2 of, and Part 7 (commencing with*
12 *Section 995) of, Division 3.6 of Title 1 of the Government Code.*

13 *9096. The bureau may adopt and enforce regulations that are*
14 *necessary, appropriate, or useful to interpret and implement this*
15 *chapter pursuant to Chapter 3.5 (commencing with Section*
16 *11340) of Part 1 of Division 3 of Title 2 of the Government Code.*

17 *9097. The bureau shall make available to members of the*
18 *public, upon request, the nature and disposition of all*
19 *complaints, on file with the bureau against an institution, in*
20 *accordance with all of the following:*

21 *(a) The bureau shall disclose all pending complaints and*
22 *investigations.*

23 *(b) The bureau shall disclose all closed complaints and*
24 *investigations where it found a violation.*

25 *(c) The bureau shall not disclose complaints that are closed as*
26 *withdrawn, have no merit, are unsubstantiated, where no*
27 *violation was found, or that have any related finding.*

28 29 *Article 6. Minimum Requirements for All Institutions*

30
31 *9100. All institutions shall meet all of the requirements of this*
32 *article.*

33 *9101. No institution, subject to this chapter, shall offer any*
34 *educational service unless the institution and the program are*
35 *first approved by the bureau and meet all of the requirements in*
36 *the following articles:*

37 *(a) This article, Article 6 (commencing with Section 94800)*
38 *except as provided for institutions approved under Article 9.5*
39 *(commencing with Section 94931), Article 10 (commencing with*

1 Section 94932), Article 11 (commencing with Section 94940),
2 and Article 12 (commencing with Section 94944).

3 (b) Article 8 (commencing with Section 94900), if the
4 institution offers degrees.

5 (c) Article 9 (commencing with Section 94915), if the
6 institution does not offer degrees.

7 (d) Article 9.5 (commencing with Section 94931), if the
8 institution is registered pursuant to that article.

9 (e) Article 7 (commencing with Section 94850), if the
10 educational programs are not exempt under Section 94790.

11 9102. All institutions approved under this chapter shall be
12 maintained and operated, or shall demonstrate that they will be
13 maintained and operated, in compliance with all of the following
14 minimum standards:

15 (a) That the institution is financially capable of fulfilling its
16 commitments to its students.

17 (b) That, upon satisfactory completion of training, the student
18 is given an appropriate degree, diploma, or certificate by the
19 institution, indicating that the course or courses of instruction or
20 the program or programs of instruction or study have been
21 satisfactorily completed by the student.

22 (c) That the institution provides instruction as part of its
23 educational program. Instruction shall include any specific,
24 formal arrangement by an institution for its enrollees to
25 participate in learning experiences wherein the institution's
26 faculty or contracted instructors present a planned curriculum
27 appropriate to the enrollee's educational program.

28 9103. (a) Each institution shall post on its Web site and
29 provide to each prospective student a school performance fact
30 sheet that discloses all of the following information. If the
31 program is too new to provide data for any of the following
32 categories, the institutions shall state that on the Web site and
33 the fact sheet:

34 (1) The number and percentage of students who begin the
35 institution's program and successfully complete the entire
36 program. The rate shall be calculated by determining the
37 percentage of students enrolled in the program who were
38 originally scheduled, at the time of enrollment, to complete the
39 program in that calendar year and who successfully completed
40 the program. The institution shall provide any other information

1 *necessary to substantiate the truth of the claim made by the*
2 *institutions as to job placement. The information required by this*
3 *paragraph shall be documented by the institution with all facts*
4 *needed to substantiate that information. Any information*
5 *regarding a student's employment shall be based on an inquiry*
6 *by the institution and shall be documented by a list indicating the*
7 *student's name, address, and telephone number; the employer's*
8 *name, address, and telephone number; the name and address or*
9 *telephone number of the person who provided the information*
10 *regarding the student's employment to the institution; the name,*
11 *title, or description of the job; the date the student obtained the*
12 *job; the duration of the student's employment; and the amount of*
13 *the salary, if any salary claim has been made. Except as provided*
14 *in Section 94874, an institution shall not disclose the records*
15 *maintained pursuant to this subdivision unless production of*
16 *those records are required by any law or by subpoena or court*
17 *order, or are necessary for a certified public accountant to*
18 *prepare a compliance report pursuant to subdivision (g) of*
19 *Section 94870.*

20 *(2) When applicable, the passage rates of graduates in the*
21 *program for the most recent calendar year that ended not less*
22 *than six months prior to the date of disclosure on any licensure*
23 *or certificate examination required by the state for employment*
24 *in the particular vocational, trade, or career field and for any*
25 *licensing preparation examination as required under subdivision*
26 *(a) of Section 94734 for which data is available.*

27 *(3) For programs offering a degree or diploma program*
28 *designed to prepare students for a particular vocational, trade,*
29 *or career field, the number and percentage of students who begin*
30 *the program and secure employment in the field for which they*
31 *were trained. In calculating this rate, the institution shall*
32 *consider as not having obtained employment, any graduate for*
33 *whom the institution does not possess evidence, documented in*
34 *his or her file, showing that he or she has obtained employment*
35 *in the occupation for which the program is offered.*

36 *(4) When applicable, the average annual starting wages or*
37 *salary of graduates of the institution's program, if the institution*
38 *makes a claim to prospective students regarding the starting*
39 *salaries of its graduates, or the starting salaries or local*
40 *availability of jobs in a field. The institution shall disclose to the*

1 prospective student the objective sources of information
2 necessary to substantiate the truthfulness of the claim. Each
3 school that offers or advertises placement assistance for any
4 course of instruction shall file with the bureau its placement
5 statistics for the 12-month period or calendar year immediately
6 preceding the date of the school's application for annual review
7 for every course of instruction. The bureau shall develop
8 standards and criteria to be used by each institution in
9 determining the statistical information required by this
10 paragraph.

11 (b) Each nonaccredited institution offering a degree program
12 designed to prepare students for a particular vocation, trade, or
13 career field and each institution subject to Article 7 (commencing
14 with Section 94850) shall provide to each prospective student a
15 statement in at least 12-point type that contains the following
16 statement: "NOTICE CONCERNING TRANSFERABILITY OF
17 UNITS AND DEGREES EARNED AT OUR SCHOOL Units you
18 earn in our ____ (fill in name of program) program in most
19 cases will probably not be transferable to any other college or
20 university. For example, if you entered our school as a freshman,
21 you will still be a freshman if you enter another college or
22 university at some time in the future even though you earned
23 units here at our school. In addition, if you earn a degree,
24 diploma, or certificate in our ____ (fill in name of program)
25 program, in most cases it will probably not serve as a basis for
26 obtaining a higher level degree at another college or university."
27 The disclosures required by this section shall be signed by the
28 institution and the student and be dated. If the solicitation or
29 negotiation leading to the agreement for a course of instruction
30 was in a language other than English, the disclosures shall be in
31 that other language.

32 (c) Each accredited institution offering a degree program
33 designed to prepare students for a particular vocation, trade, or
34 career field and each institution subject to Article 7 (commencing
35 with Section 94850) shall provide to each prospective student a
36 statement in at least 12-point type that contains the following
37 statement: "NOTICE CONCERNING TRANSFERABILITY OF
38 UNITS AND DEGREES EARNED AT OUR SCHOOL Units you
39 earn in our ____ (fill in name of program) program may not be
40 transferable to any other college or university. For example, if

1 you entered our school as a freshman, you may will still be a
2 freshman if you enter another college or university at some time
3 in the future even though you earned units here at our school. In
4 addition, if you earn a degree, diploma, or certificate in our _____
5 (fill in name of program) program, it may not serve as a basis for
6 obtaining a higher level degree at another college or university.”
7 The disclosures required by this section shall be signed by the
8 institution and the student and be dated. If the solicitation or
9 negotiation leading to the agreement for a course of instruction
10 was in a language other than English, the disclosures shall be in
11 that other language.

12 (d) Notwithstanding any provision of this section, an
13 institution offering a home study or correspondence course need
14 not orally make the disclosures required by this section in
15 connection with that course if the institution did not orally solicit
16 or recruit the student for enrollment and the student enrolled by
17 mail.

18 (e) The disclosure of any information pursuant to Section
19 94853 shall not relieve any institution of any obligation to make
20 any disclosure required under this section.

21 9104. (a) Before a person executes an agreement obligating
22 that person to pay any money to an institution for a program of
23 instruction or related equipment, the institution shall provide or
24 disclose to the person a copy of the enrollment agreement.

25 (b) If a state board, bureau, department, or agency has
26 established the minimum number of classes or class hours or the
27 minimum criteria of a course of instruction necessary for
28 licensure in an occupation and an institution offers a course of
29 instruction differing from the state entity’s minimum
30 requirements, the institution shall disclose orally and in writing
31 the state entity’s minimum requirements and how the course of
32 instruction differs from those criteria. If the institution or a
33 representative of the institution in any manner represents that the
34 program of instruction might lead to employment in an
35 occupation or job title for which a state licensing examination is
36 required, the institution shall disclose all licensure or
37 certification requirements established by the state for the
38 occupation or job title category.

39 (c) If the student obtains a loan to pay for the course of
40 instruction, the student will have the responsibility to repay the

1 *full amount of the loan plus interest, less the amount of any*
2 *refund.*

3 *(d) If the student is eligible for a loan guaranteed or reinsured*
4 *by the state or federal government and the student defaults on the*
5 *loan:*

6 *(1) The federal or state government or the loan guarantee*
7 *agency can take action against the student, including applying*
8 *any income tax refund to which the person is entitled to reduce*
9 *the balance owed on the loan.*

10 *(2) The student may not be eligible for any other federal*
11 *financial assistance for education at a different school or for*
12 *government housing assistance until the loan is repaid.*

13 *(e) The institution is not a public institution.*

14 *(f) If the institution has filed, or has had filed against it, a*
15 *petition in bankruptcy.*

16 9105. *(a) The institution shall provide to students and other*
17 *interested persons, prior to enrollment, a catalog or brochure*
18 *containing at a minimum the following information:*

19 *(1) Descriptions of the instruction provided under each course*
20 *offered by the institution including the length of programs*
21 *offered, and all of the occupations or job titles, if any, to which*
22 *the program of instruction is represented to lead.*

23 *(2) The number of credit hours or clock hours of instruction or*
24 *training per unit or units required for completion of the*
25 *educational degree or certificate program.*

26 *(3) The attendance, dropout, and leave-of-absence policies.*

27 *(4) The faculty and their qualifications.*

28 *(5) The schedule of tuition payments, fees, and all other*
29 *charges and expenses necessary for the term of instruction and*
30 *the completion of the course of study.*

31 *(6) The cancellation and refund policies.*

32 *(7) For institutions that participate in federal and state*
33 *financial aid programs, all consumer information that the*
34 *institution is required to disclose to the student.*

35 *(8) All other material facts concerning the institution and the*
36 *program or course of instruction that are reasonably likely to*
37 *affect the decision of the student to enroll.*

38 *(9) A description of the student's rights under the Student*
39 *Tuition Recovery Fund.*

1 (b) No written contract signed by the student shall be
2 enforceable unless the information specified in subdivision (a)
3 has been disclosed to the student.

4 9106. (a) Any written contract or agreement for educational
5 services with an institution shall include all of the following:

6 (1) On the first page of the agreement or contract, in 12-point
7 boldface print or larger, the following statement: “Any questions
8 or problems concerning this school which have not been
9 satisfactorily answered or resolved by the school should be
10 directed to the Bureau for Private Postsecondary and Vocational
11 Education, (address), Sacramento, California 95834.”

12 (2) In underlined capital letters on the same page of the
13 contract or agreement in which the student’s signature is
14 required, the total amount that the student is obligated to pay for
15 the course of instruction and all other services and facilities
16 furnished or made available to the student by the school,
17 including any charges made by the school for tuition, room and
18 board, books, materials, supplies, shop and studio fees, and any
19 other fees and expenses that the student will incur upon
20 enrollment.

21 (3) A list of any charges and deposits that are nonrefundable
22 clearly identified as nonrefundable charges.

23 (4) The name and address of the school and the addresses
24 where instruction will be provided.

25 (5) The name and description of the program of instruction,
26 including the total number of credits, classes, hours, or lessons
27 required to complete the program of instruction.

28 (6) A clear and conspicuous statement that the agreement or
29 contract is a legally binding instrument when signed by the
30 student and accepted by the school.

31 (7) A clear and conspicuous caption, “BUYER’S RIGHT TO
32 CANCEL” under which it is explained that the student has the
33 right to cancel the enrollment agreement and obtain a refund, the
34 form and means of notice that the student should use in the event
35 that he or she elects to cancel the enrollment agreement, and the
36 title and address of the school official to whom the notice should
37 be sent or delivered.

38 (8) A clear statement of the refund policy written in plain
39 English.

1 (9) *The signature of the student under the following statement*
2 *that is presented in 12-point boldface or larger print: “My*
3 *signature below certifies that I have read, understood, and*
4 *agreed to my rights and responsibilities, and that the institution’s*
5 *cancellation and refund policies have been clearly explained to*
6 *me.”*

7 (10) *If the student is not a resident of California or is the*
8 *recipient of third-party payor tuition and course costs, such as*
9 *workforce investment vouchers or rehabilitation funding, a clear*
10 *statement that the student is not eligible for protection under and*
11 *recovery from the Student Tuition Recovery Fund.*

12 (11) *A statement that the student is responsible for paying the*
13 *state assessment amount for the Student Tuition Recovery Fund.*

14 (12) *A schedule of payments and charges.*

15 (b) *All contracts and enrollment agreements signed by the*
16 *student shall be written in language that is capable of being*
17 *easily understood. If English is not the primary language spoken*
18 *by the student, the student shall have the right to obtain a clear*
19 *explanation of the terms and conditions of the agreement and all*
20 *cancellation and refund policies in his or her primary language.*

21 9107. *Any written contract or agreement signed by a*
22 *prospective student shall not become operative until the student*
23 *attends the first class or session of instruction. This section does*
24 *not apply to correspondence schools or other distance-learning*
25 *programs.*

26 9108. (a) *Adequate and accurate records shall be maintained*
27 *by the institution for at least five years, and satisfactory*
28 *standards shall be enforced relating to attendance, progress, and*
29 *performance.*

30 (b) *The institution shall maintain current records for a period*
31 *of not less than five years at its principal place of business in*
32 *California, that are immediately available during normal*
33 *business hours for inspection and copying by the bureau or the*
34 *Attorney General and showing all of the following:*

35 (1) *The name and addresses, both local and home, of each of*
36 *its students.*

37 (2) *The programs of study offered by the institution.*

38 (3) *The names and addresses of its faculty, together with a*
39 *record of the educational qualifications of each.*

1 (4) *The degrees or diplomas and honorary degrees and*
2 *diplomas granted, the date of granting, together with the*
3 *curricula upon which the diplomas and degrees were based.*

4 9109. *(a) An institution shall make available to a student, or*
5 *a person designated by the student, all of the student's records,*
6 *except for transcripts of grades as described in subdivision (b)*
7 *and (c).*

8 **(b)** *As provided in Section 94948, an institution may withhold*
9 *a student's transcript or grades if the student is in default on a*
10 *student tuition contract.*

11 **(c)** *If the student has made partial payment of his or her*
12 *tuition obligation, the institution may only withhold that portion*
13 *of the grades or transcript that corresponds to the amount of*
14 *tuition or loan obligation that the student has not paid. If the*
15 *course of study consists of only one course, the institution may*
16 *withhold the grades or the transcript until the tuition or loan*
17 *obligation is paid in full.*

18 9110. *An institution shall not be considered financially*
19 *responsible under any of the following conditions:*

20 **(a)** *The institution fails to have available sufficient funds and*
21 *accounts receivable to pay all operating expenses due within 30*
22 *days. For the purpose of this subdivision, "funds" means cash or*
23 *assets that can be converted into cash within seven days.*

24 **(b)** *Under generally accepted accounting principles, the*
25 *institution had, at the end of its latest fiscal year, a ratio of*
26 *current assets to current liabilities of less than 1.25 to 1. For the*
27 *purpose of this subdivision, "current assets" does not include*
28 *either of the following:*

29 **(1)** *Intangible assets, including goodwill, going concern value,*
30 *organization expense, startup costs, long-term prepayment of*
31 *deferred charges, and nonreturnable deposits.*

32 **(2)** *State or federal grant funds that are not the property of the*
33 *institution, but are held for future disbursement for the benefit of*
34 *students.*

35 **(c)** *Unearned tuition shall be accounted for in accordance with*
36 *generally accepted accounting principles. When another*
37 *government agency requires an institution to file annual*
38 *financial audit prepared by a certified public accountant, that*
39 *agency's current ratio standard may apply in lieu of the ratio*
40 *specified in this subdivision if the ratio of current assets to*

1 *current liabilities under that standard is 1 to 1 or greater.*
2 *Institutions shall self-certify that they meet the requirements of*
3 *this section and incorporate the self-certification into their*
4 *annual report.*

5 *9111. (a) In determining compliance with the requirements of*
6 *this section, the institution may consider the financial resources*
7 *of a parent corporation if the parent corporation at all times*
8 *complies with an irrevocable and unconditional agreement*
9 *approved by its board of directors that satisfies all of the*
10 *requirements of subdivision (b).*

11 *(b) The agreement described in subdivision (a) shall provide*
12 *that the parent corporation do all of the following:*

13 *(1) Consent to be sued in California.*

14 *(2) Consent to be subject to the administrative jurisdiction of*
15 *the bureau and the Student Aid Commission in connection with*
16 *the institution's compliance with this chapter.*

17 *(3) Appoint an agent for service of process in California and*
18 *all notices required by this chapter.*

19 *(4) Agree to pay any refund, claim, penalty, or judgment that*
20 *the institution is obligated to pay.*

21 *(5) File financial statements, maintain financial records, and*
22 *permit the inspection and copying of financial records to the*
23 *same extent as is required of the institution.*

24 *9112. If the bureau determines that an institution is not*
25 *financially responsible, the bureau, under terms and conditions*
26 *prescribed by the bureau, may require the institution to submit*
27 *for its latest complete fiscal year and its current fiscal year, each*
28 *of the following:*

29 *(a) A financial audit of the institution conducted by a licensed*
30 *certified public accountant, in accordance with generally*
31 *accepted auditing standards.*

32 *(b) The institution's financial plan for establishing financial*
33 *responsibility.*

34 *(c) Any other information requested by the bureau.*

35 *9113. (a) This section applies to every audit, review, and*
36 *statement prepared by an independent accountant and to every*
37 *financial report required to be prepared or filed by this chapter.*

38 *(b) Institutional audits and reviews of financial data, including*
39 *the preparation of financial statements, shall comply with all of*
40 *the following:*

1 (1) An institution that collected seven hundred fifty thousand
2 dollars (\$750,000) or more in total student charges in its
3 preceding fiscal year shall file financial reports prepared in
4 accordance with generally accepted accounting principles
5 established by the American Institute of Certified Public
6 Accountants, and audited or reviewed by an independent
7 certified public accountant who is not an employee, officer, or
8 corporate director or member of the governing board of the
9 institution.

10 (2) An institution that collected less than seven hundred fifty
11 thousand dollars (\$750,000) in total student charges in its
12 preceding fiscal year shall file financial statements prepared in
13 accordance with generally accepted accounting principles
14 established by the American Institute of Certified Public
15 Accountants. These financial statements shall be reviewed by an
16 independent certified public accountant who is not an employee,
17 officer, or corporate director of the governing board of the
18 institution.

19 (3) Financial statements prepared on an annual basis shall
20 include a balance sheet, statement of operations, statement of
21 cashflow, and statement of retained earnings or capital.
22 Nonprofit institutions shall provide this information in the
23 manner required under generally accepted accounting principles
24 for nonprofit organizations.

25 (4) The financial report shall establish whether the institution
26 complies with subdivision (a) of Section 94804 or subdivision (a)
27 of Section 94855, if applicable, and whether any of the
28 circumstances described in subdivision (b) of Section 94804 or
29 subdivision (b) of Section 94855, if applicable, exist.

30 (5) If an audit that is performed to determine compliance with
31 any federal or state student financial aid program reveals any
32 failure to comply with the requirements of the program, and the
33 noncompliance creates any liability or potential liability for the
34 institution, the financial report shall reflect the liability or
35 potential liability.

36 (6) Work papers and the supporting documentation for the
37 financial statements shall be retained for five years from the date
38 of the reports, and shall be made available to the bureau upon
39 request after completion of the report.

1 (c) Any audits shall be conducted in accordance with
2 generally accepted auditing standards, and shall include the
3 matters described in subdivision (d).

4 (d) If an audit is conducted, the accountant shall obtain an
5 understanding of the institution's internal financial control
6 structure, assess any risks, and report any material deficiencies
7 in the internal controls.

8 (e) Any audit or financial report shall contain a statement
9 signed by the individual who has prepared the report stating that
10 the institution has paid or has not paid to the bureau all amounts
11 owed under Section 94945. If the institution is a corporation that
12 is publicly traded on a national stock exchange, the submission
13 of the corporation's annual report shall be deemed to comply
14 with this section. The bureau shall be deemed an intended
15 beneficiary of that statement in any audit or financial report. An
16 institution that has not paid all amounts owed to the bureau
17 under Section 94945 shall report to the bureau within 30 days on
18 its plan to become current in these payments. This subdivision
19 shall not be construed to require the institution to prepare a
20 separate audit or report on the Student Tuition Recovery Fund.

21 9114. (a) All new institutions shall be required to post a
22 bond in the amount of dollars (\$____), with a term of three
23 years. The requirement to post a bond shall not apply to any
24 institution that has held a full approval for a period of five years,
25 or is accredited by a state-approved accrediting body.

26 (b) Any bond ordered by the bureau shall be issued by an
27 admitted surety insurer in an amount established at the
28 discretion of the bureau that is sufficient to protect students from
29 the potential consequences of the violation.

30 (c) The bond shall be in favor of the State of California for the
31 indemnification of any person for any loss, including the loss of
32 prepaid tuition, suffered as a result of the occurrence of any
33 violation of this chapter during the period of coverage.

34 (d) Liability on the bond may be enforced after a hearing
35 before the bureau, after 30 days' advance written notice to the
36 principal and surety. The bureau shall adopt regulations
37 establishing the procedure for administrative enforcement of
38 liability. This paragraph supplements, but does not supplant, any
39 other rights or remedies to enforce liability on the bond.

1 9115. (a) Each institution approved to operate under this
2 chapter shall be required to report to the bureau, by July 1 of
3 each year, or another date designated by the bureau, the
4 following information for educational programs offered in the
5 prior fiscal year:

6 (1) The total number of students enrolled, by level of degree or
7 type of diploma program.

8 (2) The number of degrees and diplomas awarded, by level of
9 degree.

10 (3) The degree levels offered.

11 (4) Program completion rates.

12 (5) The schedule of tuition and fees required for each term,
13 program, course of instruction, or degree offered.

14 (6) Financial information demonstrating compliance with
15 subdivisions (b) and (c) of Section 94804 and subdivisions (b)
16 and (c) of Section 94855, if applicable.

17 (7) Institutions having a probationary or conditional status
18 shall submit an annual report reviewing their progress in
19 meeting the standards required for approval status.

20 (8) A statement indicating whether the institution is or is not
21 current on its payments to the Student Tuition Recovery Fund.

22 (9) Any additional information that the bureau may prescribe.

23 (b) Colleges and universities operating under paragraph (6) of
24 subdivision (b) of Section 94739 shall comply with the reporting
25 requirements of paragraphs (1), (2), (3), and (5) of subdivision
26 (a).

27 (c) Program completion rates and placement data shall be
28 reported in accordance with the standards and criteria
29 prescribed by the bureau pursuant to paragraphs (1) to (4),
30 inclusive, of subdivision (a) of Section 94816 and Section 94859,
31 if applicable. Based on the review of information submitted to
32 fulfill the requirements of this section, the bureau may initiate a
33 compliance review and may place the institution on probation
34 pursuant to subdivision (h) of Section 94901 and subdivision (i)
35 of Section 94915, and may require evidence of financial stability
36 and responsibility pursuant to Sections 94804 and 94855, if
37 applicable.

38 9116. (a) Every institution shall designate and maintain an
39 agent for service of process within this state and provide the
40 name, address, and telephone number of the agent to the bureau.

1 *The bureau shall furnish the agent's name, address, and*
2 *telephone number to any person upon request.*

3 *(b) If an institution is not operating in California when it*
4 *applies for approval to operate, the institution shall set forth the*
5 *name, address, and telephone number of its agent for service of*
6 *process in the institution's application.*

7 *(c) If an institution fails to designate or maintain an agent for*
8 *service of process pursuant to subdivision (a) and if service on*
9 *the institution cannot reasonably be effected in the manner*
10 *provided in Section 415.10, 415.20, 415.30, or 415.40 of the*
11 *Code of Civil Procedure, the institution may be served by leaving*
12 *a copy of the process or any other document in an office of the*
13 *bureau and by sending, by first-class mail, a notice of the service*
14 *upon the bureau and a copy of the process or other document to*
15 *the institution at its last address on file with the bureau. Service*
16 *in this manner shall be deemed complete on the 10th day after*
17 *that mailing to the institution. Proof of service may be made by a*
18 *declaration showing compliance with this subdivision.*

19 *9117. (a) Notwithstanding any other provision of this*
20 *chapter concerning agents, the owner of at least 51 percent of*
21 *the equitable interest in an institution shall be exempt from this*
22 *section if the institution is approved to operate pursuant to*
23 *Article 8 (commencing with Section 94900) or Article 9*
24 *(commencing with Section 94915). No person may act as an*
25 *agent, unless that person holds a valid permit issued by the*
26 *bureau and maintains at all times a surety bond as described in*
27 *paragraph (2). Administrators or faculty, or both, who make*
28 *informational public appearance, but whose primary task is not*
29 *to serve as a paid recruiter, are exempt from this section. The*
30 *application for a permit shall be furnished by the bureau and*
31 *shall include the following:*

32 *(1) A statement signed by the applicant that he or she has read*
33 *this chapter and the regulations adopted pursuant thereto.*

34 *(2) A surety bond issued by an admitted surety insurer in favor*
35 *of the State of California for the indemnification of any person*
36 *for any loss suffered as a result of the occurrence, during the*
37 *period of coverage, of any fraud or misrepresentation used in*
38 *connection with the solicitation for the sale or the sale of any*
39 *program of study, or as a result of any violation of this chapter.*
40 *The term of the bond shall extend over the period of the permit.*

1 *The bond may be supplied by the institution or by the person for*
2 *whom the issuance of the permit is sought and may extend to*
3 *cover individuals separately or to provide blanket coverage for*
4 *all persons to be engaged as representatives of the institution.*
5 *The bond shall provide for liability in the penal sum of*
6 *twenty-five thousand dollars (\$25,000) for each agent to whom*
7 *coverage is extended by its terms. Neither the principal nor the*
8 *surety on a bond may terminate the coverage of the bond, except*
9 *upon giving 30 days' prior written notice to the bureau, and*
10 *contemporaneously surrendering the agent's permit. Liability on*
11 *the bond may be enforced after a hearing before the bureau,*
12 *after 30 days' advance written notice to the principal and surety.*
13 *The bureau shall adopt regulations establishing the procedure*
14 *for administrative enforcement of liability. This paragraph*
15 *supplements, but does not supplant, any other rights or remedies*
16 *to enforce liability on the bond.*

17 *(3) A fee as required by Section 94932.*

18 *(b) An agent representing more than one institution shall*
19 *obtain a separate agent's permit and bond for each institution*
20 *represented.*

21 *(c) No person shall be issued a permit if he or she previously*
22 *has been found in any judicial or administrative proceeding to*
23 *have violated this chapter, or there exists any of the grounds for*
24 *denial set forth in Section 480 of the Business and Professions*
25 *Code.*

26 *(d) A permit shall be valid for the calendar year in which it is*
27 *issued, unless sooner revoked or suspended by the bureau for*
28 *fraud or misrepresentation in connection with the solicitation for*
29 *the sale of any course of study, for any violation of this chapter,*
30 *or for the existence of any condition in respect to the permittee or*
31 *the school he or she represents which, if in existence at the time*
32 *the permit was issued, would have been grounds for denial of the*
33 *permit.*

34 *(e) The permittee shall carry the permit with him or her for*
35 *identification purposes when engaged in the solicitation of sales*
36 *and the selling of courses of study away from the premises of the*
37 *school, and shall produce the permit for inspection upon the*
38 *request of any person.*

39 *(f) Chapter 5 (commencing with Section 11500) of Part 1 of*
40 *Division 3 of Title 2 of the Government Code or Section 94975*

1 *shall apply to any determination of the bureau made pursuant to*
2 *this section.*

3 *(g) The issuance of a permit pursuant to this section shall not*
4 *be interpreted as, and it shall be unlawful for any individual*
5 *holding any permit to expressly or impliedly represent by any*
6 *means whatsoever, that the bureau has made any evaluation,*
7 *recognition, accreditation, or endorsement of any course of study*
8 *being offered for sale by the individual.*

9 *(h) It is unlawful for any individual holding a permit under*
10 *this section to expressly or impliedly represent, by any means*
11 *whatsoever, that the issuance of the permit constitutes an*
12 *assurance by the bureau that any course of study being offered*
13 *for sale by the individual will provide and require of the student*
14 *a course of education or training necessary to reach a*
15 *professional, educational, or vocational objective, or will result*
16 *in employment or personal earnings for the student.*

17 *(i) No agent shall make any untrue or misleading statement or*
18 *engage in sales, collection, credit, or other practices of any type*
19 *that are false, deceptive, misleading, or unfair.*

20 *(j) The bureau shall maintain records for five years of each*
21 *application for a permit, each bond, and each issuance, denial,*
22 *termination, suspension, and revocation of a temporary permit or*
23 *permit.*

24 *(k) A student may bring an action for an agent's violation of*
25 *this chapter or any fraud or misrepresentation and, upon*
26 *prevailing, is entitled to the recovery of damages, reasonable*
27 *attorney's fees, and costs. If a court finds that the violation was*
28 *willfully committed, the court, in addition to the award of*
29 *damages, shall award a civil penalty of up to two times the*
30 *amount of damages sustained by the student.*

31 *(l) Any person who violates this section is guilty of a*
32 *misdemeanor, punishable by imprisonment in a county jail not*
33 *exceeding six months, by a fine not to exceed five thousand*
34 *dollars (\$5,000), or by both that imprisonment and fine.*

35 9118. *(a) Except as provided in subdivision (g), any agency*
36 *shall be required to hold a valid authorization issued by the*
37 *bureau. The application for an authorization shall include all of*
38 *the following:*

1 (1) A current financial statement prepared by a California
2 licensed certified public accountant who is not an employee,
3 officer, or director of the institution.

4 (2) Evidence of a surety bond issued in favor of the State of
5 California by an admitted surety insurer making provision for
6 indemnification of any person for any loss suffered as a result of
7 the occurrence, during the period of coverage, of any fraud or
8 misrepresentation used in connection with the solicitation for the
9 sale or the sale of any program of study, or as a result of any
10 violation of this chapter. The term of the bond shall extend over
11 the period of the authorization. The bond shall provide for
12 liability in the penal sum of two hundred fifty thousand dollars
13 (\$250,000) for each agency to which coverage is extended by its
14 terms. Neither the principal nor the surety on a bond may
15 terminate the coverage of the bond except upon giving 30 days'
16 prior written notice to the bureau, and upon contemporaneously
17 surrendering the agency's authorization to operate. Liability on
18 the bond may be enforced after a hearing before the bureau,
19 after 30 days' advance written notice to the principal and surety.
20 This paragraph supplements, but does not supplant, any other
21 rights or remedies to enforce liability on the bond.

22 (3) A copy of the student disclosure statement to be read and
23 signed by all prospective students referred to institutions by an
24 agency. The student disclosure statement shall include, but shall
25 not be limited to, all of the following:

26 (A) A statement to the effect that no promise of employment
27 has been made by the agency.

28 (B) A statement to the effect that repayment of any debt
29 incurred by a student in connection with his or her education will
30 be the sole responsibility of the student.

31 (C) The amount and terms of any fee to be paid by the student
32 to the agency.

33 (D) A verbatim statement, as follows: "Any questions or
34 problems concerning this agency should be directed to the
35 Bureau for Private Postsecondary Education, Sacramento, CA
36 95834."

37 (E) A statement to the effect that the institution or institutions
38 to which the prospective student is referred by the agency have
39 the obligation to make available to the student a catalog or
40 brochure containing information describing all of the following:

- 1 (i) *The courses offered.*
- 2 (ii) *Program objectives.*
- 3 (iii) *Length of program.*
- 4 (iv) *The faculty and their qualifications.*
- 5 (v) *A schedule of tuition, fees, and all other charges and*
- 6 *expenses necessary for the completion of the course of study.*
- 7 (vi) *The cancellation and refund policies.*
- 8 (vii) *The total cost of tuition over the period needed to*
- 9 *complete the student's education.*
- 10 (viii) *For vocational training programs, placement data,*
- 11 *including program completion rates, placement rates, and*
- 12 *starting salaries.*
- 13 (ix) *Other material facts concerning the institution and the*
- 14 *program or course of instruction that are reasonably likely to*
- 15 *affect the decision of the student to enroll in the institution.*
- 16 (4) *Identification of all employees of the agency and their*
- 17 *titles, and of all agents with whom the agency contracts.*
- 18 (5) *Identification of all owners, and if the entity is a*
- 19 *corporation, the identification of all persons possessing an*
- 20 *interest equal to, or in excess, of 10 percent.*
- 21 (6) *Identification of all vendors of educational services for*
- 22 *which the agency provides recruitment services.*
- 23 (7) *A signed statement by the applicant that all employees*
- 24 *engaged in recruitment activities will be required to read*
- 25 *Sections 94831, 94832, and 94985 and, if the educational*
- 26 *program for which the agency recruits is subject to Article 7*
- 27 *(commencing with Section 94850), Section 94853.*
- 28 (b) *Within 30 days of receipt of a completed application and*
- 29 *prior to issuance of an authorization a representative of the*
- 30 *bureau shall inspect the applicant agency and verify the*
- 31 *application. Within 30 days of the inspection, the bureau shall*
- 32 *issue the authorization for a one-year period, subject to annual*
- 33 *renewal at the end of that period, or deny the application. The*
- 34 *bureau shall deny the authorization if the agency or any owner,*
- 35 *officer, or director of the agency previously has been found in*
- 36 *any judicial or administrative proceeding to have violated this*
- 37 *chapter, or if there exists any of the grounds for denial set forth*
- 38 *in Section 480 of the Business and Professions Code.*

1 (c) Any employee of an authorized agency engaged in student
2 recruitment activities of an authorized agency is exempt from the
3 bond requirements of Section 94940.

4 (d) Neither the agency nor any of its employees shall make any
5 untrue or misleading statement in the course of any solicitation
6 or recruitment activity or engage in the sales, collection, credit,
7 or other practices of any type that are false, deceptive,
8 misleading, or unfair.

9 (e) An agency or an employee of an agency shall provide a
10 prospective student with the disclosure statement described in
11 paragraph (3) of subdivision (a) and shall allow the prospective
12 student a sufficient opportunity to read it before soliciting or
13 recruiting him or her for enrollment or referring him or her to an
14 institution. That disclosure statement shall be printed in 10-point
15 type in English and, if the solicitation, recruitment, or referral is
16 to be conducted in a language other than English, in that other
17 language.

18 (f) Any institution approved under this chapter shall cease any
19 and all recruitment activities involving the agency upon action by
20 the bureau to revoke or deny an agency's authorization.

21 (g) This section does not apply to any agency recruiting solely
22 for institutions described in Article 8 (commencing with Section
23 94900).

24 (h) The bureau shall maintain records for five years of each
25 application for an authorization, each verification by the bureau
26 of an application, each bond, and each denial, issuance, and
27 revocation of an authorization.

28 (i) A student may bring any action against any agency if the
29 agency or an employee of the agency violates this chapter or
30 commits any fraud or misrepresentation and, upon prevailing, is
31 entitled to the recovery of damages, reasonable attorney's fees,
32 and costs. If a court finds that the violation was willfully
33 committed, the court shall, in addition to the award of damages,
34 award a civil penalty of up to two times the amount of damages
35 sustained by the student.

36 (j) Any person who violates this section is guilty of a
37 misdemeanor punishable by imprisonment in a county jail not
38 exceeding six months, by a fine not to exceed five thousand
39 dollars (\$5,000), or by both that imprisonment and fine.

1 9119. (a) *The governing board or other governing authority*
2 *of any private postsecondary or vocational educational*
3 *institution shall adopt rules providing for the withholding of*
4 *institutional services from students or former students who have*
5 *been notified, in writing, at the student's or former student's last*
6 *known address, that he or she is in default on a loan or loans*
7 *under either of the following loan programs:*

8 (1) *The Stafford Student Loan program.*

9 (2) *The Supplemental Loans for Students program.*

10 (3) *Any program directly or indirectly financed by the*
11 *California Educational Facilities Authority.*

12 (b) *The rules adopted pursuant to subdivision (a) shall provide*
13 *that the services withheld may be provided during a period when*
14 *the facts are in dispute and when the student or former student*
15 *demonstrates to either the governing board or other appropriate*
16 *governing authority of the institution, or the Student Aid*
17 *Commission and the appropriate entity or its designee, that*
18 *reasonable progress has been made to repay the loan or that*
19 *there exists a reasonable justification for the delay as determined*
20 *by the institution. The rules shall specify the services to be*
21 *withheld from the student and may include, but are not limited to,*
22 *the following:*

23 (1) *The provision of grades.*

24 (2) *The provision of transcripts.*

25 (3) *The provision of diplomas. The rules shall not include the*
26 *withholding of registration privileges.*

27 (c) *When it has been determined that an individual is in*
28 *default on a loan or loans under either of the loan programs*
29 *specified in subdivision (a), the Student Aid Commission shall*
30 *give notice of the default to all institutions through which that*
31 *individual acquired the loan or loans.*

32 (d) *Guarantors, or those who act as their agents or act under*
33 *their control, who provide information to institutions pursuant to*
34 *this section, shall defend, indemnify, and hold harmless the*
35 *governing board or other governing authority of the institutions*
36 *from action resulting from compliance with this section when the*
37 *action arises as a result of incorrect, misleading, or untimely*
38 *information provided to the institution by the guarantors, their*
39 *agents, or those acting under the control of the guarantors.*

1 9120. (a) No institution shall offer ESL instruction without
2 the prior approval of the bureau.

3 (b) The bureau shall not approve an institution's offering of
4 ESL instruction unless that institution complies with the
5 minimum standards established in subdivision (a) of Section
6 94915.

7 (c) An institution that offers ESL instruction to a student shall
8 not enroll the student in any educational service presented in the
9 English language unless the student passes a test indicating that
10 he or she has attained adequate proficiency in oral and written
11 English to comprehend instruction in English.

12 (d) A student who has completed ESL instruction at an
13 institution shall not be enrolled in any course of instruction
14 presented in the English language at that institution unless the
15 student passes a test indicating that he or she has attained
16 adequate proficiency in oral and written English to be
17 successfully trained by English language instruction to perform
18 tasks associated with the occupations or job titles to which the
19 educational program is represented to lead.

20 (e) If an institution offers ESL instruction to a student to
21 enable the student to use already existing knowledge, training, or
22 skills in the pursuit of an occupation, the institution shall test the
23 student after the student completes the ESL instruction to
24 determine that the student has attained adequate proficiency in
25 oral and written English to use his or her existing knowledge,
26 training, or skills. Before enrolling the student in ESL
27 instruction, the institution shall document the nature of the
28 student's existing knowledge, training, or skills and that the ESL
29 instruction is necessary to enable the student to use that existing
30 knowledge, training, or skills.

31 (f) If an institution offers ESL instruction to a student in
32 connection with a course of instruction leading to employment in
33 any occupation requiring licensure awarded after the passage of
34 an examination offered in English, the institution shall test the
35 student after the student completes the ESL instruction to
36 determine that the student has attained a level of proficiency in
37 English reasonably equivalent to the level of English in which the
38 licensure examination is offered.

39 (g) If the results of a test administered pursuant to subdivision
40 (d), (e), (f), or (g) indicate that the student has not attained

1 *adequate English language proficiency after the completion of*
2 *ESL instruction, the institution shall offer the student additional*
3 *instruction without charge, for a period of up to 50 percent of the*
4 *number of hours of instruction previously offered by the*
5 *institution to the student, to enable the student to attain adequate*
6 *English language proficiency.*

7 *(h) This section does not apply to educational services*
8 *exempted from this article under subdivision (c) of Section 94790*
9 *or to grantees funded under Section 1672 of Title 29 of the*
10 *United States Code.*

11 *(i) The institution, for five years, shall retain an exemplar of*
12 *each language proficiency test administered pursuant to this*
13 *section, an exemplar of the answer sheet for each test, a record*
14 *of the score for each test, the answer sheets or other responses*
15 *submitted by each person who took each test, and the*
16 *documentation required by subdivision (f).*

17 *(j) (1) In addition to any applicable provisions of this chapter,*
18 *this article, except for Section 94854, subparagraph (B) of*
19 *paragraph (2) of subdivision (a) of Section 94859, and Section*
20 *94872, applies to any program in which ESL instruction is*
21 *offered.*

22 *(2) For the purpose of determining compliance with this*
23 *article, ESL instruction shall be deemed a course, and a charge*
24 *shall be deemed to be made for ESL instruction if a student is*
25 *obligated to make any payment in connection with the*
26 *educational service, including, but not limited to, the ESL*
27 *instruction that is offered by the institution.*

28 *(k) The tests used by an institution pursuant to this section*
29 *shall be tests that are approved by the United States Department*
30 *of Education or tests such as the Test of English as a Foreign*
31 *Language and the Comprehensive Adult Student Assessment*
32 *System that are generally recognized by public and private*
33 *institutions of higher learning in this state for the evaluation of*
34 *English language proficiency. An institution shall demonstrate to*
35 *the bureau that the tests and passing scores that it uses establish*
36 *that students have acquired the degree of proficiency in oral and*
37 *written English required by subdivision (d), (e), (f), or (g),*
38 *whichever is applicable. The required level of proficiency in oral*
39 *and written English shall not be lower than the sixth grade level.*

1 *(l) All tests shall be independently administered, without*
2 *charge to the student and in accordance with the procedures*
3 *specified by the test publisher. The tests shall not be administered*
4 *by a previous or current owner, director, consultant, or*
5 *representative of the institution or by any person who previously*
6 *had, or currently has, a direct or indirect financial interest in the*
7 *institution other than the arrangement to administer the test. The*
8 *bureau shall adopt regulations that contain criteria to ensure*
9 *independent test administration including the criteria established*
10 *by the United States Department of Education and set forth on*
11 *pages 52160 and 52161 of Volume 55 of the Federal Register,*
12 *dated December 19, 1990.*

13 9121. Any provision in any agreement that purports to
14 require a student to invoke any grievance dispute procedure
15 established by the institution before enforcing any right or
16 remedy is void and unenforceable.

17
18 Article 7. State Recognized Accrediting Agencies
19

20 9130. The bureau may utilize the resources of accrediting
21 associations in gathering information about accredited
22 postsecondary and vocational institutions, including
23 participating as an observer on accreditation site visits.

24 9131. The following regional accrediting agencies are
25 recognized by the Bureau for approval of institutions and
26 programs, as provided in Articles 8 and 9.

27 (a) Middle States Association of Colleges and Schools,
28 Commission on Higher Education.

29 (b) New England Association of Schools and Colleges,
30 Commission on Institutions of Higher Education.

31 (c) North Central Association of Colleges and Schools, The
32 Higher Learning Commission.

33 (d) Northwest Association of Schools and of Colleges and
34 Universities, Commission on Colleges and Universities.

35 (e) Southern Association of Colleges and Schools, Commission
36 on Colleges.

37 9132. The following regional accrediting agencies are
38 recognized by the Bureau for approval of institutions and
39 programs, as provided in Articles 8 and 9.

1 (a) *The Accrediting Council for Independent Colleges and*
2 *Schools (ACICS).*

3 (b) *The Accrediting Commission of Career Schools and*
4 *Colleges of Technology (ACCSC).*

5 (c) *The Accrediting Council for Continuing Education and*
6 *Training (ACCET).*

7 (d) *The Distance Education and Training Council (DETC).*

8 (e) *Accrediting Bureau of Health Education Schools (ABHES).*

9 (f) *Council on Occupational Education .*

10 9133. *The bureau shall accept additional national*
11 *accrediting agencies as designated by statute.*

12 9134. *Each institution approved under this chapter shall*
13 *provide the bureau with copies of all accrediting agency reports,*
14 *including preliminary reports and reports of visiting committees,*
15 *all audit reports prepared by the United States Department of*
16 *Education and student loan guaranty agencies, including all*
17 *preliminary reports, and the institution's written responses to the*
18 *reports described in this section, if applicable. The institution*
19 *shall provide a copy of each report within 15 days of the*
20 *institution's receipt of the report and a copy of the institution's*
21 *response within 15 days of the institution's submission of its*
22 *response.*

23 9135. *Within 30 days of any action by any accrediting agency*
24 *that establishes, reaffirms, or publicly sanctions the accreditation*
25 *of any private postsecondary educational institution operating in*
26 *the state, including those institutions that satisfy the requirements*
27 *of paragraph (7) of subdivision (b) of Section 94739, the*
28 *accrediting agency shall notify the bureau of that action and*
29 *shall provide a copy of any public statements regarding the*
30 *reasons for the accrediting agency's action.*

31 9136. (a) *Each institution shall be deemed to have*
32 *authorized the accrediting agency that accredited the institution*
33 *to provide to the bureau, the Attorney General, any district*
34 *attorney or city attorney, or the Student Aid Commission, within*
35 *30 days of written notice, copies of all documents and other*
36 *material concerning the institution that is maintained by the*
37 *accrediting agency.*

38 (b) *Within 30 days of receiving written notice from the bureau,*
39 *the Attorney General, any district attorney or city attorney, or*
40 *the Student Aid Commission, an accrediting agency shall provide*

1 *the requesting official with all documents or other material*
2 *concerning an institution accredited by that accrediting agency*
3 *that are designated specifically or by category in the written*
4 *notice.*

5 *(c) If the bureau, the Attorney General, any district attorney or*
6 *city attorney, or the Student Aid Commission is conducting a*
7 *confidential investigation of an institution and so informs the*
8 *accrediting agency, the accrediting agency shall not inform that*
9 *institution of the investigation.*

10 *(d) If an accrediting agency willfully fails to comply with this*
11 *section, the accrediting agency shall be liable for a civil penalty*
12 *of not less than two thousand five hundred dollars (\$2,500) or*
13 *more than twenty-five thousand dollars (\$25,000) for each*
14 *violation. Penalties awarded pursuant to this section shall be*
15 *deposited in the Private Postsecondary and Vocational*
16 *Education Administration Fund or any successor fund.*

17
18 *Article 8. Degree Programs*
19

20 *9150. (a) If a shift in control or change of ownership of an*
21 *institution occurs, an application for a new approval to operate*
22 *for the institution under the changed ownership or control shall*
23 *be filed with the bureau at least 20 days prior to the shift in*
24 *control or change in ownership. Whenever an institution is*
25 *operated at different locations, an application for approval shall*
26 *be filed for each location.*

27 *(b) The application for approval to operate submitted in*
28 *conjunction with a change of ownership may include pertinent*
29 *portions of the institution's previous application prepared in*
30 *connection with programs or courses of instruction that remain*
31 *unchanged or unaffected by the change in ownership.*

32 *(c) No application for ownership or transfer of ownership*
33 *shall be approved for any applicant that has been found*
34 *previously in any judicial or administrative proceeding to have*
35 *violated this chapter, or if there exists any of the grounds for*
36 *denial set forth in Section 480 of the Business and Professions*
37 *Code.*

38 *(d) No change in ownership of the institution shall be made*
39 *until the application is approved. If an application for a new*
40 *approval to operate is not timely filed as required by this section,*

1 *the institution's approval to operate shall terminate. Upon*
2 *approval of a change in ownership, the bureau shall give written*
3 *notice to the Student Aid Commission.*

4 *(e) For the purposes of this section, a change in ownership*
5 *occurs when there is a change of control of the institution, or*
6 *where a person that previously did not own at least 25 percent of*
7 *the stock or controlling interest of an institution or its parent*
8 *corporation, acquires ownership of at least 25 percent of the*
9 *stock of the institution or its parent corporation, or when a*
10 *for-profit business converts to nonprofit corporation status or*
11 *forms a nonprofit corporation as a subsidiary to provide the*
12 *educational services for which the for-profit business is approved*
13 *to operate.*

14 *9151. If an institution is not operating in California when it*
15 *applies for approval to operate for itself or a branch or satellite*
16 *campus, the institution shall file with its application an*
17 *operational plan establishing that the institution will satisfy the*
18 *minimum standards set forth in subdivision (a) of Section 94900.*
19 *The operational plan also shall include a detailed description of*
20 *the institution's program for implementing the operational plan,*
21 *including proposed procedures, financial resources, and the*
22 *qualifications of owners, directors, officers, and administrators*
23 *employed at the time of the filing of the application. The bureau*
24 *may request additional information to enable the bureau to*
25 *determine whether the operational plan and its proposed*
26 *implementation will satisfy these minimum standards.*

27 *9152. An institution may include some or all of its separate*
28 *operating sites under one application. Alternately, it may submit*
29 *separate applications for any one site or combination of sites.*
30 *The satellites or branches included in either an initial or renewal*
31 *application shall be considered by the bureau to comprise a*
32 *separate, single institution for purposes of regulation, approval,*
33 *and compliance under this chapter.*

34 *9153. The application shall include a single fee based on the*
35 *number of branches, satellites, and programs included within a*
36 *single application in order to cover the costs involved for those*
37 *multisite and multiprogram reviews. If the application is for*
38 *renewal of an existing approval, the institution need only submit*
39 *information necessary to document any changes made since the*
40 *time its previous application was filed with the bureau. Fees for*

1 *renewal applications will be based on the actual costs involved*
2 *in the administrative review process.*

3 *9154. (a) No private postsecondary educational institution*
4 *may issue, confer, or award an academic or honorary degree*
5 *unless the institution is approved by the bureau to operate in*
6 *California and award degrees. The bureau shall not issue an*
7 *approval under paragraph (1) of subdivision (c) of Section 94901*
8 *until it has conducted a qualitative review and assessment of, and*
9 *has approved, each degree program offered by the institution,*
10 *and all of the operations of the institution, and has determined*
11 *all of the following:*

12 *(1) The institution has the facilities, financial resources,*
13 *administrative capabilities, faculty, and other necessary*
14 *educational expertise and resources to ensure its capability of*
15 *fulfilling the program or programs for enrolled students.*

16 *(2) The faculty are fully qualified to undertake the level of*
17 *instruction that they are assigned and shall possess degrees or*
18 *credentials appropriate to the degree program and level they*
19 *teach and have demonstrated professional achievement in the*
20 *major field or fields offered, in sufficient numbers to provide the*
21 *educational services.*

22 *(3) The education services and curriculum clearly relate to the*
23 *objectives of the proposed program or programs and offer*
24 *students the opportunity for a quality education.*

25 *(4) The facilities are appropriate for the defined educational*
26 *objectives and are sufficient to ensure quality educational*
27 *services to the students enrolled in the program or programs.*

28 *(5) The program of study for which the degree is granted*
29 *provides the curriculum necessary to achieve its professed or*
30 *claimed academic objective for higher education, and the*
31 *institution requires a level of academic achievement appropriate*
32 *to that degree.*

33 *(6) The institution provides adequate student advisement*
34 *services, academic planning and curriculum development*
35 *activities, research supervision for students enrolled in Ph.D.*
36 *programs, and clinical supervision for students enrolled in*
37 *various health profession programs.*

38 *(7) If the institution offers credit for prior experiential*
39 *learning it may do so only after an evaluation by qualified faculty*
40 *and only in disciplines within the institution's curricular*

offerings that are appropriate to the degree to be pursued. The council shall develop specific standards regarding the criteria for awarding credit for prior experiential learning at the graduate level, including the maximum number of hours for which credit may be awarded.

(b) The bureau may request additional information to enable the bureau to determine whether the operational plan and its proposed implementation will satisfy these minimum standards.

(c) No private postsecondary educational institution may issue, confer, or award an academic or honorary degree unless the institution is approved by the bureau to operate in California and award degrees.

9155. (a) The approval process shall include a qualitative review and assessment of all of the following:

(1) Institutional purpose, mission, and objectives.

(2) Governance and administration.

(3) Curriculum.

(4) Instruction.

(5) Faculty, including their qualifications.

(6) Physical facilities.

(7) Administrative personnel.

(8) Procedures for keeping educational records.

(9) Tuition, fee, and refund schedules.

(10) Admissions standards.

(11) Financial aid policies and practices.

(12) Scholastic regulations and graduation requirements.

(13) Ethical principles and practices.

(14) Library and other learning resources.

(15) Student activities and services.

(16) Degrees offered. The standards and procedures utilized by the bureau shall foster the development of high quality, innovative educational programs and emerging new fields of study within postsecondary education. In addition, the standards and procedures utilized by the bureau shall not unreasonably hinder educational innovation and competition.

(b) The number of sites inspected by the bureau as part of its review process shall be subject to the following considerations:

(1) If the application for approval includes branches and satellites, the bureau shall inspect each branch and may inspect any satellite campus.

1 (2) *If the application is for approval to operate a branch or a*
2 *satellite, the bureau, in addition to inspecting the branch or*
3 *satellite, also may inspect the institution operating the branch or*
4 *satellite campus.*

5 (c) *The bureau may waive or modify the onsite inspection for*
6 *institutions offering home study or correspondence courses. The*
7 *visiting committee shall be composed of educators, and other*
8 *individuals with expertise in the areas listed in subdivision (b) of*
9 *Section 94900, from degree-granting institutions legally*
10 *operating within the state.*

11 (d) *An institution shall not offer any educational program or*
12 *degree title that was not offered by the institution at the time the*
13 *institution applied for approval to operate, and shall not offer*
14 *any educational program or degree title at a campus that had not*
15 *offered the program or degree title at the time the institution*
16 *applied for approval to operate that campus, unless the bureau*
17 *first approves the offering of the program or degree title after*
18 *determining that it satisfies the minimum standards established*
19 *by this section.*

20 9156. (a) *If at any time the bureau determines that an*
21 *institution has deviated from the standards for approval, the*
22 *bureau, after identifying for the institution the areas in which it*
23 *has deviated from the standards, and after giving the institution*
24 *due notice and an opportunity to be heard, may place the*
25 *institution on probation for a prescribed period of time, not to*
26 *exceed 24 calendar months.*

27 (b) *During the period of probation, the institution shall be*
28 *subject to special monitoring. The conditions for probation may*
29 *include the required submission of periodic reports, as*
30 *prescribed by the bureau, and special visits by authorized*
31 *representatives of the bureau to determine progress toward total*
32 *compliance. If, at the end of the probationary period, the*
33 *institution has not taken steps to eliminate the cause or causes*
34 *for its probation to the satisfaction of the bureau, the bureau may*
35 *revoke the institution's approval to award degrees and provide*
36 *notice to the institution to cease its operations.*

37 9157. (a) *An institution accredited by a state recognized*
38 *accrediting agency shall be required to notify the bureau of the*
39 *addition of a degree, diploma, or certificate program that is not*
40 *included in the institution's initial or renewal application within*

1 90 days of adding the program. If the accrediting agency, as
2 defined in Article 7, requires approval of the additional degree,
3 diploma, or certificate program, a copy of the certificate of
4 accreditation or approval shall be included with the notice to the
5 bureau, and no additional review or investigation of the program
6 shall be required by the bureau.

7 (b) If the regional accrediting agency does not require
8 approval of the additional degree, diploma, or certificate
9 program, the institution shall include its most recent certificate
10 of accreditation with the notice to the bureau, and no additional
11 review or investigation of the program or institution shall be
12 required by the bureau. Nothing in this subdivision shall be
13 construed to limit the authority of the bureau to investigate
14 student complaints.

15 9158. (a) At least 90 days prior to the expiration of an
16 approval to operate, the an accredited institution or program
17 shall complete and file with the bureau an application form for
18 renewal of its approval to operate. The renewal application need
19 only provide evidence of good standing with a state recognized
20 accrediting agency, and accrediting agency approval of all
21 programs and campus locations, or evidence that the
22 programmatic or campus approvals are not required by the
23 accrediting agency.

24 (b) Fees for processing the renewal application shall be based
25 on the number and types of changes it contains. The renewal
26 application may be reviewed and acted upon as provided in
27 Sections 94802, 94804, and 94835, and Section 94900 or 94915,
28 whichever is applicable.

29 9159. (a) All institutions holding a temporary, conditional,
30 or full approval as of December 31, 2006 shall retain that
31 approval, subject to renewal.

32 (b) For renewal, an unaccredited institution under this section
33 need only submit information necessary to document any
34 changes made since the time its previous application was filed
35 with the bureau. Fees for renewal applications will be based on
36 the actual costs involved in the administrative review process.

37 9160. An institution shall not offer any educational program
38 or degree title that was not offered by the institution at the time
39 the institution applied for approval to operate, and shall not offer
40 any educational program or degree title at a campus that had not

1 offered the program or degree title at the time the institution
2 applied for approval to operate that campus, unless the bureau
3 first approves the offering of the program or degree title after
4 determining that it satisfies the minimum standards established
5 by this article.

6 9161. At least 90 days prior to the expiration of an approval
7 to operate, the institution shall complete and file with the bureau
8 an application form for renewal of its approval to operate. The
9 renewal application need only contain a description of any
10 changes made by the institution since the time its last application
11 was reviewed by the council. Fees for processing the renewal
12 application shall be based on the number and types of changes it
13 contains. The renewal application may be reviewed and acted
14 upon as provided in Sections 94802, 94804, and 94835, and
15 Section 94900 or 94915, whichever is applicable. The institution
16 need only submit information necessary to document any
17 changes made since the time its previous application was filed
18 with the bureau.

19 9162. (a) By December 31, 2008, the bureau shall empanel
20 visiting committees and complete qualitative site reviews of all
21 unaccredited degree-granting institutions operating with a
22 temporary or conditional approval as of December 31, 2006.

23 (b) If an institution is not fully approved by December 31,
24 2008, due to compliance deficiencies, the bureau shall place the
25 institution on probation, or suspend or revoke the institution's
26 temporary or conditional approval.

27 (c) If an institution is not fully approved by December 31,
28 2008, due to failure by the bureau to act upon the institution's
29 application, the bureau shall extend the institution's temporary
30 or conditional approval to December 31, 2009, and immediately
31 report to the Legislature the reason's why it was unable to act
32 upon the institution's application.

33 34 Article 9. Unaccredited Non-Degree Programs 35

36 9175. Article 9 is applicable to any institution offering one or
37 more non-degree programs costing more than \$7,500, and not
38 offering one or more degree programs subject to Article 8.

1 ***(b) Institutions subject to this article shall be subject to Article***
2 ***12.1 enhanced student protections, unless accredited by an***
3 ***approved accrediting agency pursuant to Article 7.***

4 ***(c) Accredited institutions subject to this article shall be***
5 ***subject to Article 12 general cancellation, withdrawal, and***
6 ***refund policies and exempt from Article 12.1.***

7 ***(d) All institutions subject to this article shall be subject to***
8 ***Article 12.5.***

9 ***(e) All institutions subject to this article shall be subject to***
10 ***periodic inspections and other compliance monitoring and***
11 ***enforcement activities of the bureau pursuant to Articles 5 and***
12 ***13.***

13 ***(f) All institutions subject to this article shall be required to***
14 ***pay annual fees pursuant to Article 14.***

15 ***(g) All institutions subject to this article shall be responsible***
16 ***for all expenses of visiting team members, including the bureau's***
17 ***staff liaison.***

18 ***9176. The bureau shall review all operations of the institution***
19 ***pertaining to California degrees, both within and outside of***
20 ***California. The bureau may conduct site visits outside of***
21 ***California, including the institution's foreign operations, when***
22 ***the bureau deems these visits to be necessary. The institution***
23 ***shall be responsible for the expenses of the visiting team***
24 ***members including the bureau's staff liaison. The bureau may***
25 ***authorize any institution approved to issue degrees under this***
26 ***section to issue certificates for the completion of courses of study***
27 ***that are within the institution's approved degree-granting***
28 ***programs.***

29 ***9177. (a) If a shift in control or change of ownership of an***
30 ***institution occurs, an application for a new approval to operate***
31 ***for the institution under the changed ownership or control shall***
32 ***be filed with the bureau at least 20 days prior to the shift in***
33 ***control or change in ownership. Whenever an institution is***
34 ***operated at different locations, an application for approval shall***
35 ***be filed for each location.***

36 ***(b) The application for approval to operate submitted in***
37 ***conjunction with a change of ownership may include pertinent***
38 ***portions of the institution's previous application prepared in***
39 ***connection with programs or courses of instruction that remain***
40 ***unchanged or unaffected by the change in ownership.***

1 (c) No application for ownership or transfer of ownership
2 shall be approved for any applicant that has been found
3 previously in any judicial or administrative proceeding to have
4 violated this chapter, or if there exists any of the grounds for
5 denial set forth in Section 480 of the Business and Professions
6 Code.

7 (d) No change in ownership of the institution shall be made
8 until the application is approved. If an application for a new
9 approval to operate is not timely filed as required by this section,
10 the institution's approval to operate shall terminate. Upon
11 approval of a change in ownership, the bureau shall give written
12 notice to the Student Aid Commission.

13 (e) For the purposes of this section, a change in ownership
14 occurs when there is a change of control of the institution, or
15 where a person that previously did not own at least 25 percent of
16 the stock or controlling interest of an institution or its parent
17 corporation, acquires ownership of at least 25 percent of the
18 stock of the institution or its parent corporation, or when a
19 for-profit business converts to nonprofit corporation status or
20 forms a nonprofit corporation as a subsidiary to provide the
21 educational services for which the for-profit business is approved
22 to operate.

23 9178. If an institution is not operating in California when it
24 applies for approval to operate for itself or a branch or satellite
25 campus, the institution shall file with its application an
26 operational plan establishing that the institution will satisfy the
27 minimum standards set forth in subdivision (b). The operational
28 plan also shall include a detailed description of the institution's
29 program for implementing the operational plan, including
30 proposed procedures, financial resources, and the qualifications
31 of owners, directors, officers, and administrators employed at the
32 time of the application's filing. The bureau may request
33 additional information to enable the bureau to determine
34 whether the operational plan and its proposed implementation
35 will satisfy these minimum standards.

36 9179. Application for approval shall be made in writing on
37 forms prescribed by the bureau. The application for approval
38 shall include, if applicable to the institution, a statement of
39 whether the institution claims that it is exempt or that a course or
40 other educational service it offers is exempt from Article 12.1. An

1 institution may include some, or all, of its separate operating
2 sites under one application. Alternately, it may submit separate
3 applications for any one site or combination of sites. The
4 satellites or branches included in either an initial or renewal
5 application shall be considered by the bureau to comprise a
6 separate, single institution for purposes of regulation, approval,
7 and compliance under this chapter. The application shall include
8 a single fee based on the number of branches, satellites, and
9 programs included within a single application in order to cover
10 the costs involved for those multisite and multiprogram reviews.

11 9180. (a) If an institution is operating under the bureau's
12 prior approval and the institution has applied for approval to
13 operate for itself or a branch or satellite campus that is
14 operating, the bureau shall not grant approval to operate until
15 the bureau has conducted a qualitative review and assessment of
16 the operations of the institution in California and determined that
17 all of the following minimum standards have been satisfied:

18 (1) The quality and content of each course or program of
19 instruction, training, or study may reasonably and adequately be
20 expected to achieve the objective for which the course or
21 program is offered. Except for continuing education programs
22 and programs that are exclusively avocational or recreational in
23 nature, all programs offered by the institution shall meet the
24 minimum standards prescribed by this subdivision. If an
25 institution represents that a course or program leads to
26 employment, the quality, content, and instruction of the course or
27 program shall be sufficient to ensure that students may acquire
28 the necessary level of education, training, skill, and experience to
29 obtain employment in the occupation or job title to which the
30 course or program of instruction is represented to lead.

31 (2) The institution has adequate space, equipment,
32 instructional material, and instructor personnel to provide
33 training of the quality needed to attain the objective described in
34 paragraph (1).

35 (3) Every instructor and administrator possesses adequate
36 academic, experiential, and professional qualifications to teach
37 the course or to perform the duties that the person is assigned,
38 satisfies all standards established by the council by regulation,
39 and holds an applicable and valid certificate of authorization for
40 service issued by the council in the specified competence area in

1 *which the individual will serve. No person shall serve as an*
2 *instructor or member of the administrative staff if that person has*
3 *been convicted of, or has pled nolo contendere or guilty to, a*
4 *crime involving the acquisition, use, or expenditure of federal or*
5 *state funds, or who has been judicially or administratively*
6 *determined to have committed any violation of this chapter or of*
7 *any law involving state or federal funds.*

8 *(4) The institution maintains for at least five years written*
9 *records of each student's previous education and training, where*
10 *applicable.*

11 *(5) A copy of the course outline, description of the occupations*
12 *or job titles, if any, to which the course of instruction is*
13 *represented to lead, schedule of tuition, fees, and other charges,*
14 *refund policy, regulations pertaining to tardiness, absences, and*
15 *the grading policy, and rules of operation and conduct is given to*
16 *students prior to enrollment.*

17 *(6) The institution maintains and enforces adequate standards*
18 *relating to, and maintains records of, attendance, satisfactory*
19 *academic progress, and student performance to achieve the*
20 *objective described in paragraph (1).*

21 *(7) The institution complies with all local city, county,*
22 *municipal, state, and federal regulations relative to the safety*
23 *and health of all persons upon the premises such as fire,*
24 *building, and sanitation codes. The bureau may require evidence*
25 *of compliance.*

26 *(8) The institution does not exceed enrollment that the*
27 *facilities and equipment of the institution can reasonably handle.*

28 *(9) The institution's officers, directors, and owners*
29 *demonstrate financial and fiduciary responsibility, as prescribed*
30 *by statute, or by regulations adopted by the bureau.*

31 *(10) The institution is in compliance with this chapter and has*
32 *developed policies and procedures designed to ensure that*
33 *compliance.*

34 *(11) No circumstances exist that may constitute grounds for*
35 *the revocation or suspension of an approval to operate.*

36 *(12) The institution complies with Article 12.1 (commencing*
37 *with Section 9255) if that article is applicable to any educational*
38 *program it offers.*

39 *(b) Instructors shall have all of the following qualifications:*

40 *(1) No record of any violations of this chapter.*

1 (2) *Verification that he or she possesses a combination of at*
2 *least three years' experience and training or education in the*
3 *occupation or job title category for which the certification is*
4 *sought or equivalent experience as determined by the bureau.*

5 (3) *An instructor for a program that leads to a degree shall*
6 *possess a degree of equal or higher level in the occupation for*
7 *which certification is sought.*

8 9181. (a) *Directors shall have both of the following*
9 *qualifications:*

10 (1) *Three years' experience in an administrative position in a*
11 *public or an approved private postsecondary school, or*
12 *equivalent experience as determined by the Bureau.*

13 (2) *No record of any violations of this chapter.*

14 (b) *Associate directors shall have both of the following*
15 *qualifications:*

16 (1) *Two years' experience in an administrative or other*
17 *responsible position in a public or state approved private*
18 *postsecondary school or equivalent experience as determined by*
19 *the Bureau.*

20 (2) *No record of any violations of this chapter.*

21 (c) *Financial aid directors shall have all of the following*
22 *qualifications:*

23 (1) *Five years' experience in an administrative position in the*
24 *financial aid office of a public or approved private*
25 *postsecondary school or equivalent experience as determined by*
26 *the bureau.*

27 (2) *Verification of completion within the previous two years of*
28 *a training seminar or workshop certified by the Student Aid*
29 *Commission as providing up-to-date comprehensive information*
30 *on financial aid programs and policies.*

31 (3) *No record of any violations of this chapter.*

32 9182. *The bureau may deny the application if the institution*
33 *does not comply with this chapter, including the minimum*
34 *standards established in subdivision (b), or has operated within*
35 *three years before the filing of the application in violation of this*
36 *chapter then in effect. If the application is denied, the bureau*
37 *may permit the institution to continue offering the course or*
38 *courses of instruction to students already enrolled or may order*
39 *the institution to cease all instruction and provide a refund of*
40 *tuition and all other charges to students. The bureau shall notify*

1 *the institution of the denial, the basis for the denial, and the right*
2 *of the institution to request a hearing to contest the denial.*

3 9183. *Within one year following the receipt of an application*
4 *from an institution and prior to granting any approval, a*
5 *representative of the bureau shall personally inspect the*
6 *institution and verify the institution's compliance with the*
7 *standards prescribed by this chapter. The bureau may use a*
8 *qualified visiting committee in the initial review of programs and*
9 *in subsequent reviews. The visiting committee may include*
10 *employers with expertise related to the program being reviewed.*
11 *The institution seeking approval shall reimburse the bureau for*
12 *the expenses of the visiting committee. The onsite inspection shall*
13 *include an inspection of the institution's facilities and records,*
14 *interviews of administrators, faculty, and students, and an*
15 *observation of class instruction, as determined to be appropriate*
16 *by the bureau.*

17 (a) *If the application for approval includes branch or satellite*
18 *campuses, the bureau shall inspect each branch campus and may*
19 *inspect any satellite campus.*

20 (b) *If the application is for approval to operate a branch or a*
21 *satellite, the bureau, in addition to inspecting the branch or*
22 *satellite, also may inspect the institution operating the branch or*
23 *satellite campus.*

24 (c) *The bureau may waive or modify the requirement for onsite*
25 *inspections of branch campuses located outside of California or*
26 *for an institution offering home study or correspondence courses.*

27 (d) *The bureau shall review all operations of the institution*
28 *both within and outside of California. The bureau may conduct*
29 *site visits outside of California, including the institution's foreign*
30 *operations, when the bureau deems these visits to be necessary.*
31 *The institution shall be responsible for the expenses of any*
32 *visiting team members including the bureau's staff liaison.*

33 9184. (a) *If an institution does not attain full approval status*
34 *within three (3) years of issuance of a temporary approval issued*
35 *after December 31, 2006, the bureau may extend the term of the*
36 *temporary approval by up to three (3) additional years and*
37 *impose a plan for closure of the institution.*

38 (b) *After a maximum period of six (6) Years, any temporary*
39 *approval issued subsequent to December 31, 2006, shall be*

1 *revoked (or terminated) and the institution may no longer*
2 *continue to operate.*

3 *9185. All institutions operating under either a temporary or*
4 *full approval shall obtain bureau approval of any additional*
5 *programs or campus locations that are not included in its*
6 *application for approval, and shall pay a fee with its application*
7 *for approval of the additional programs or campus locations as*
8 *specified in Article 14.*

9 *9186. (a) If at any time an institution operating under a*
10 *temporary approval becomes accredited by a state approved*
11 *accrediting agency as defined in Article 7, it shall notify the*
12 *bureau and provide a copy of its certificate of accreditation.*
13 *Upon receipt of the notification of accreditation, the bureau shall*
14 *issue a full approval to the institution for a term of up to four (4)*
15 *years and no additional review or investigation of the institution*
16 *shall be required by the bureau.*

17 *(b) If accredited by an approved accrediting agency pursuant*
18 *to Article 7 and not currently operating in California, the*
19 *institution must submit an application for approval and provide*
20 *a copy of the institution's certificate of accreditation.*

21 *9187. An institution accredited by a state recognized*
22 *accrediting agency shall be required to notify the bureau of the*
23 *addition of a degree, diploma, or certificate program that is not*
24 *included in the institution's initial or renewal application within*
25 *90 days of adding the program. If the accrediting agency, as*
26 *defined in Article 7, requires approval of the additional degree,*
27 *diploma, or certificate program, a copy of the certificate of*
28 *accreditation or approval shall be included with the notice to the*
29 *bureau, and no additional review or investigation of the program*
30 *shall be required by the bureau. If the regional accrediting*
31 *agency does not require approval of the additional degree,*
32 *diploma, or certificate program, the institution shall include its*
33 *most recent certificate of accreditation with the notice to the*
34 *bureau, and no additional review or investigation of the program*
35 *or institution shall be required by the bureau. Nothing in this*
36 *subdivision shall be construed to limit the authority of the bureau*
37 *to investigate student complaints.*

38 *9188. At least 90 days prior to the expiration of an approval*
39 *to operate, an institution or program shall complete and file with*
40 *the bureau an application form for renewal of its approval to*

1 operate. If accredited by a state-recognized accrediting agency,
2 the renewal application need only provide evidence of good
3 standing with a state recognized accrediting agency, and
4 accrediting agency approval of all programs and campus
5 locations, or evidence that the programmatic or campus
6 approvals are not required by the accrediting agency. Fees for
7 processing the renewal application shall be based on the number
8 and types of changes it contains. The renewal application may be
9 reviewed and acted upon as provided in Sections 94802, 94804,
10 and 94835, and Section 94900 or 94915, whichever is
11 applicable.

12
13 *Article 10. Registered Programs*
14

15 9200. (a) This article shall apply to programs with a total
16 charge of \$3,001 to \$7,500.

17 (b) A program that qualifies under this article shall be subject
18 to Article 12.1 and 12.5, and is exempt from Article 12.

19 9201. (a) An institution offering a program that qualifies
20 under this article shall submit an application provided by the
21 bureau. A separate application shall be submitted for each
22 program.

23 (b) The application submitted to the bureau shall contain all of
24 the following information for public disclosure:

25 (1) The owner's legal name, street address, and telephone and
26 fax numbers.

27 (2) The institution's headquarters street address, website
28 address, and telephone and fax numbers.

29 (3) The name of the institution's agency for service of process
30 within California.

31 (4) All names, whether real or fictitious, under which the
32 owner is doing and will do business.

33 (5) The names and addresses of the institution's principal
34 officers.

35 (6) A list of the addresses of all locations where instruction
36 will be provided.

37 (7) The title of the educational program.

38 (8) The total amount of fees that students will be obligated to
39 pay for the educational program.

40 (9) A program brochure or catalog.

1 (10) A sample advertisement used to promote the educational
2 program.

3 (11) A copy of the enrollment agreement or registration form
4 that enrolls the student in the educational program, and which
5 shall contain all of the following:

6 (A) Name and address of the location where instruction will be
7 provided.

8 (B) The title of the educational program.

9 (C) The total amount the student is obligated to pay.

10 (D) A clear and conspicuous statement that the enrollment
11 agreement or registration form is a legally binding document
12 when signed by the student and accepted by the institution.

13 (E) The refund policy of the institution.

14 (F) The following statement, in at least 12-point boldfaced
15 type:

16 “This program is registered by (name of institution) as meeting
17 certain minimum standards established by the State of
18 California. Registration does not mean that we have met the
19 more extensive standards established by the state for programs
20 that are approved, or that the state has verified the information
21 submitted with our registration application. Participants in
22 registered programs are eligible for participation in the Student
23 Tuition Recovery Fund administered by the state for purposes of
24 reimbursing student tuition in the event a school closes prior to
25 the student’s completion of a program of instruction. Any
26 questions or problems concerning this program that are not
27 satisfactorily answered or resolved by the school may be directed
28 to the Bureau of Private Postsecondary Education (insert street
29 address, city, CA, zip code, telephone number, fax number, and
30 web site address).

31 (G) If the institution assists students in obtaining financing
32 from a third party for the cost of the educational program, a copy
33 of the contract or financing agreement used for that purpose.

34 (12) A sample certificate of completion.

35 (b) The application shall include a statement that the program
36 meets the requirements of this article and that the applicant has
37 read, understands, and agrees to comply with all applicable
38 requirements of the Act, including all applicable provisions of
39 Articles 2, 5, 6, 11, 12.1, 12.5, 13, and 14.

1 (c) *The application shall be signed by the chief executive*
2 *officer of the institution under penalty of perjury.*

3 9202. *Notwithstanding the requirements of Section 3 of this*
4 *article, if an educational program that qualifies under this article*
5 *is accredited by a state-recognized accrediting agency, or the*
6 *institution offering a program that qualifies under this article is*
7 *accredited by a state-recognized accrediting agency, the*
8 *institution shall notify the bureau of the addition of the program*
9 *within 90 days of adding the program. If the state-approved*
10 *accrediting agency requires approval of the additional program,*
11 *a copy of the accrediting agency's certificate of accreditation or*
12 *approval shall be included with the notice to the bureau. If the*
13 *state-approved accrediting agency does not require approval of*
14 *the additional program, the institution shall include its most*
15 *recent certificate of accreditation with the notice to the bureau.*
16 *Additionally, the institution shall identify the title of the*
17 *educational program, the locations where the instruction will be*
18 *provided, and the total amount that the student will be obligated*
19 *to pay for the educational program. The notification shall*
20 *include a statement that the applicant has read, understands, and*
21 *agrees to comply with all applicable requirements of this*
22 *chapter, including all applicable provisions of Article 2, 5, 6, 7,*
23 *11, 12.1, 12.5, 13, and 14. The notification shall be signed by the*
24 *chief executive officer of the institution under penalty of perjury.*

25 9203. *Upon receipt and completion of a review of an*
26 *application for registration submitted pursuant to Section 9201*
27 *or 9202, the bureau may request additional information or*
28 *conduct a qualitative site review if needed to further verify*
29 *compliance with the requirements of the Act, and shall issue its*
30 *approval of the registration application provided that the*
31 *applicant is in compliance with the requirements of this Act and*
32 *has paid the appropriate application fees.*

33 9204. *The term of any program registration issued by the*
34 *bureau shall be four years.*

35 9205. *A program registration may not be renewed except by*
36 *submitting an application pursuant to Section 9201 or 92023 of*
37 *this article. The term of any renewal shall be four (4) years.*

38 9206. *Institutions offering registered programs shall notify*
39 *the bureau of any changes made pertaining to the program's*
40 *title, length, location for instruction, or amount of charges paid*

1 *by a student. The notification shall be provided within 30 days of*
2 *making the change.*

3 9207. *Any change of ownership or control of a registered*
4 *program must be approved by the bureau by using an application*
5 *form provided by the bureau for this purpose.*

6 9208. (a) *Before accepting any consideration from a student,*
7 *an institution offering a registered program pursuant to this*
8 *article shall provide the student with an enrollment agreement or*
9 *registration form containing in a single document all of the terms*
10 *related to the instruction and payment. The enrollment*
11 *agreement or registration form shall contain all of the*
12 *information set forth in paragraph (11) of subdivision (b) of*
13 *Section 9201.*

14 (b) *The enrollment agreement shall be printed in at least*
15 *10-point type font in English and, if any solicitation or*
16 *negotiation leading to the student's enrollment was in a language*
17 *other than English, in that other language.*

18 (c) *If an institution fails to comply with this section, any*
19 *enrollment agreement or registration form shall be invalid and*
20 *the institution shall refund to the student all of the tuition paid by*
21 *the student to the institution.*

22 9209. *Any educational program that is registered pursuant to*
23 *this article shall be restricted to stating that the program is*
24 *"registered" and is prohibited from using the words "approval",*
25 *"approved", "approval to operate", "approved to operate",*
26 *"authorized", "licensed" or "licensed to operate".*

27 9210. *Any educational program that is registered pursuant to*
28 *this article shall be subject to payment of fees on annual (or*
29 *biannual) basis as required by Article 14.*

30
31 *Article 11. Self-Certified Programs*
32

33 9220. (a) *This article shall apply to programs with a total*
34 *charge of \$1,001 to \$3,000, where no part of the total charge is*
35 *paid from a governmental student financial aid program, loan, or*
36 *grant.*

37 (b) *Notwithstanding subdivision (a), this article shall also*
38 *apply to Intensive English Language (IEL) programs approved*
39 *by the U.S. Citizenship and Immigration Services solely to*
40 *provide English instruction to international students for a*

1 *designated period of study in the U.S., irrespective of the cost of*
2 *the program. Students attending IEL programs cannot be*
3 *residents of California or the U.S., and are not eligible for*
4 *federal financial aid.*

5 *9221. A program that qualifies under this article shall be*
6 *subject to Article 12 and is exempt from Article 12.1 and 12.5.*

7 *9222. (a) An institution offering a program that qualifies*
8 *under this article shall submit an application provided by the*
9 *bureau. A separate application shall be submitted for each*
10 *program.*

11 *(b) The application submitted to the bureau shall contain all of*
12 *the following information for public disclosure:*

13 *(1) The owner's legal name, street address, and telephone and*
14 *fax numbers.*

15 *(2) The institution's headquarters street address, website*
16 *address, and telephone and fax numbers.*

17 *(3) The name of the institution's agency for service of process*
18 *within California.*

19 *(4) All names, whether real or fictitious, under which the*
20 *owner is doing and will do business.*

21 *(5) The names and addresses of the institution's principal*
22 *officers.*

23 *(6) A list of the addresses of all locations where instruction*
24 *will be provided.*

25 *(7) The title of the educational program.*

26 *(8) The total amount of fees that students will be obligated to*
27 *pay for the educational program.*

28 *(9) A program brochure or catalog.*

29 *(10) A sample advertisement used to promote the educational*
30 *program.*

31 *(11) A copy of the enrollment agreement or registration form*
32 *that enrolls the student in the educational program, and which*
33 *shall contain all of the following:*

34 *(A) Name and address of the location where instruction will be*
35 *provided.*

36 *(B) The title of the educational program.*

37 *(C) The total amount the student is obligated to pay.*

38 *(D) A clear and conspicuous statement that the enrollment*
39 *agreement or registration form is a legally binding document*
40 *when signed by the student and accepted by the institution.*

1 (E) *The refund policy of the institution.*

2 (F) *The following statement, in at least 12-point boldfaced*
3 *type:*

4 *“This program is self-certified by (name of institution) as*
5 *meeting certain minimum standards established by the State of*
6 *California. Self-certification does not mean that we have met the*
7 *more extensive standards established by the state for programs*
8 *that are registered or approved, or that the state has verified the*
9 *information submitted with our self-certification application.*
10 *Additionally, participants in self-certified programs are not*
11 *eligible for participation in the Student Tuition Recovery Fund*
12 *administered by the state for purposes of reimbursing student*
13 *tuition in the event a school closes prior to the student’s*
14 *completion of a program of instruction. Any questions or*
15 *problems concerning this program that are not satisfactorily*
16 *answered or resolved by the school may be directed to the*
17 *Bureau of Private Postsecondary Education (insert street*
18 *address, city, CA, zip code, telephone number, fax number, and*
19 *web site address).*

20 (G) *Institutions providing IEL instruction shall also include*
21 *with the statement required by (F) information referring the*
22 *student to a consulate of his or her country and the U.S.*
23 *Citizenship and Naturalization Service.*

24 (H) *If the institution assists students in obtaining financing*
25 *from a third party for the cost of the educational program, a copy*
26 *of the contract or financing agreement used for that purpose.*

27 (12) *A sample certificate of completion.*

28 (b) *The application shall include a statement that the program*
29 *meets the requirements of this article and that the applicant has*
30 *read, understands, and agrees to comply with all applicable*
31 *requirements of the Act, including all applicable provisions of*
32 *Articles 2, 5, 6, 11, 12, 13, and 14.*

33 (c) *The application shall be signed by the chief executive*
34 *officer of the institution under penalty of perjury.*

35 9223. (a) *Notwithstanding the requirements of Section 3 of*
36 *this article, if an educational program that qualifies under this*
37 *article is accredited by a state-recognized accrediting agency, or*
38 *the institution offering a program that qualifies under this article*
39 *is accredited by a state-recognized accrediting agency, the*
40 *institution shall notify the bureau of the addition of the program*

1 within 90 days of adding the program. If the state-approved
2 accrediting agency requires approval of the additional program,
3 a copy of the accrediting agency's certificate of accreditation or
4 approval shall be included with the notice to the bureau. If the
5 state-approved accrediting agency does not require approval of
6 the additional program, the institution shall include its most
7 recent certificate of accreditation with the notice to the bureau.

8 (b) Additionally, the institution shall identify the title of the
9 educational program, the locations where the instruction will be
10 provided, and the total amount that the student will be obligated
11 to pay for the educational program. The notification shall
12 include a statement that the applicant has read, understands, and
13 agrees to comply with all applicable requirements of this
14 chapter, including all applicable provisions of Article 2, 5, 6, 7,
15 11, 12, 13, and 14. The notification shall be signed by the chief
16 executive officer of the institution under penalty of perjury.

17 9224. Upon receipt and completion of a review of an
18 application for self-certification submitted pursuant to Section 3
19 or 4, the bureau may request additional information if needed to
20 further verify compliance with the requirements of the Act, and
21 shall issue its approval of the self-certification application
22 provided that the applicant is in compliance with the
23 requirements of this act and has paid the appropriate application
24 fees.

25 9225. The term of any program self-certification issued by the
26 bureau shall be four years.

27 9226. A program self-certification may not be renewed except
28 by submitting an application pursuant to Section 3 or 4 of this
29 article. The term of any renewal shall be four years.

30 9227. Institutions offering self-certified programs shall notify
31 the bureau of any changes made pertaining to the program's
32 title, length, location for instruction, or amount of charges paid
33 by a student. The notification shall be provided within 30 days of
34 making the change.

35 9228. Any change of ownership or control of a self-certified
36 program is prohibited. If a change of ownership or control
37 occurs, a self-certification application must be submitted
38 pursuant to Section 9222 or 9223.

39 9229. (a) Before accepting any consideration from a student,
40 an institution offering a self-certified program pursuant to this

1 article shall provide the student with an enrollment agreement or
2 registration form containing in a single document all of the terms
3 related to the instruction and payment. The enrollment
4 agreement or registration form shall contain all of the
5 information set forth in paragraph (11) of subdivision (b) of
6 Section 9222.

7 (b) The enrollment agreement shall be printed in at least
8 10-point type font in English and, if any solicitation or
9 negotiation leading to the student's enrollment was in a language
10 other than English, in that other language.

11 (c) Intensive English Language programs shall provide in a
12 written agreement with any agent or representative that the agent
13 or representative is required to disclose to each prospective
14 student in writing, in the language of any solicitation or
15 negotiation leading to the student's enrollment, all of the
16 information described in paragraph (11) of subdivision (b) of
17 Section 9222.

18 (d) If an institution fails to comply with this section, any
19 enrollment agreement or registration form shall be invalid and
20 the institution shall refund to the student all of the tuition paid by
21 the student to the institution.

22 9230. Any educational program that is self-certified pursuant
23 to this article shall be restricted to stating that the program is
24 "self-certified" and is prohibited from using the words
25 "registered", "approval", "approved", "approval to operate",
26 "approved to operate", "authorized", "licensed" or "licensed to
27 operate".

28 9231. Any educational program that is self-certified pursuant
29 to this article shall be subject to payment of fees on annual or
30 biannual basis as required by Article 14.

31
32 Article 12. General Cancellation, Withdrawal, and Refund
33 Policies
34

35 9240. This article shall apply to all of the following:

36 (a) Non-WASC regionally accredited institutions.

37 (b) An institution accrediting by a state recognized national
38 accrediting association.

39 (c) Educational services that confer degrees upon the
40 completion of a course of study of two or more academic years

1 *that are scheduled to be completed in not less than 17 months or*
2 *that confer degrees, such as master's or doctorate degrees, on*
3 *students who have completed a graduate course of study of one*
4 *or more years at a college or university.*

5 *(d) Programs registered pursuant to Article 11.*

6 *(e) An institution that enrolls 100 or fewer students, where no*
7 *part of the charges for any educational service offered by the*
8 *institution is paid from the proceeds of a loan or grant subject to*
9 *a governmental student financial aid program.*

10 *(f) A institution that is incorporated and has continuously*
11 *lawfully operated for at least five years as a nonprofit public*
12 *benefit corporation pursuant to Part 2 (commencing with Section*
13 *5110), or as a nonprofit religious corporation pursuant to Part 4*
14 *(commencing with Section 9110), of Division 2 of Title 1 of the*
15 *Corporations Code and is not managed or administered by any*
16 *entity for profit.*

17 *(g) An educational service that is offered exclusively to assist*
18 *students to prepare for an examination for entrance into an*
19 *undergraduate or graduate course of study at an accredited or*
20 *approved college or university.*

21 *(h) An educational service providing license and exam*
22 *preparations that is offered exclusively to assist students, who*
23 *have obtained, or who are in the process of obtaining, degrees*
24 *after completing an undergraduate or graduate course of study*
25 *at a college or university, to prepare for an examination for*
26 *licensure in a recognized profession, such as medicine, dentistry,*
27 *accounting, or law.*

28 *(i) An educational service offering continuing education in*
29 *subjects that licensees are required to take as a condition of*
30 *continued licensure.*

31 *(j) Educational service offering training exclusively in the fine*
32 *arts or performing arts, such as training to be an actor, dancer,*
33 *author, vocal or instrumental musician, painter, sculptor, or*
34 *photographer; in body arts, such as training in body piercing or*
35 *massage; or in another similar field as designated by the bureau.*

36 *(k) An educational service for all students enrolled that is*
37 *entirely and exclusively offered pursuant to a contract between*
38 *the institution and a community college, a high school, or an*
39 *employer who has the responsibility for applicable cost; and the*

1 *students are not required to pay, or are not liable to pay, any*
2 *part of the total charge for the educational service.*

3 *(l) An educational service that is three or more academic*
4 *years, is scheduled to be completed in not less than 27 months,*
5 *where the institution does not admit students to the educational*
6 *service more than four times during a year; and the institution*
7 *confers a diploma upon the student's completion of the*
8 *educational service.*

9 *(m) An educational service that is more than 30 months in*
10 *length, and the total charge for the educational service is*
11 *payable by the student in equal monthly installments over the*
12 *entire length of the course, and the institution does not receive,*
13 *and the student is not obligated to pay, an advance payment for*
14 *more than one month.*

15 *9241. Any written contract or agreement signed by a*
16 *prospective student shall not become operative until the student*
17 *attends the first class or session of instruction. This provision*
18 *does not apply to correspondence schools or other*
19 *distance-learning programs.*

20 *9242. Institutions, for all students, without penalty or*
21 *obligation, shall refund 100 percent of the amount paid for*
22 *institutional charges, less a reasonable deposit or application fee*
23 *not to exceed one hundred dollars (\$100), two hundred fifty*
24 *dollars (\$250) if notice of cancellation is made prior to or on the*
25 *first day of instruction. If the first lesson in a home study or*
26 *correspondence course is sent to the student by mail, the*
27 *institution shall send it by first-class mail, postage prepaid,*
28 *documented by a certificate of mailing, and the student shall*
29 *have the right to cancel until midnight of the eighth business day*
30 *after the first lesson was mailed. The institution shall advise each*
31 *student that any notification of withdrawal or cancellation and*
32 *any request for a refund is required to be made in writing.*

33 *9243. (a) The institution shall have and maintain the policy*
34 *set forth in this article for the refund of the unused portion of*
35 *tuition fees and other charges if the student does not register for*
36 *the period of attendance or withdraws there from at any time*
37 *prior to completion of the courses, or otherwise fails to complete*
38 *the period of enrollment. The institutional refund policy for*
39 *students who have completed 60 percent or less of the course of*
40 *instruction shall be a pro rata refund.*

1 ***(b) Except as provided in subdivision (c), the refund shall be***
2 ***calculated as follows:***

3 ***(1) Deduct a registration fee not to exceed two hundred fifty***
4 ***dollars (\$250) from the total tuition charge.***

5 ***(2) Divide this figure by the number of hours in the program.***

6 ***(3) The quotient is the hourly charge for the program.***

7 ***(4) The amount owed by the student for the purposes of***
8 ***calculating a refund is derived by multiplying the total hours***
9 ***attended by the hourly charge for instruction plus the amount of***
10 ***the registration fee specified in paragraph (1).***

11 ***(5) The refund shall be any amount in excess of the figure***
12 ***derived in paragraph (4) that was paid by the student.***

13 ***(c) For an educational service offered by distance learning,***
14 ***home study, or correspondence, the refund shall be calculated as***
15 ***follows:***

16 ***(1) Deduct a registration fee not to exceed one hundred (\$100)***
17 ***from the total tuition charge.***

18 ***(2) Divide this figure by the number of lessons in the program.***

19 ***(3) The quotient is the per-lesson charge.***

20 ***(4) The amount owed by the student for the purposes of***
21 ***calculating a refund is derived by multiplying the total number of***
22 ***lessons received by the per-lesson charge calculated in***
23 ***paragraph (3) plus the amount of the registration fee specified in***
24 ***paragraph (1).***

25 ***(5) The refund shall be any amount in excess of the figure***
26 ***derived in paragraph (4) that was paid by the student.***

27 ***(d) For the purposes of this section, institutions may specify in***
28 ***enrollment agreements the time limits within which students are***
29 ***required to complete the requirements of a course in a distance***
30 ***learning program.***

31 ***9244. The institution shall pay or credit refunds due on a***
32 ***reasonable or timely basis, not to exceed 30 days following the***
33 ***date upon which the student's withdrawal has been determined.***

34 ***9245. Institutions offering distance learning, home study, or***
35 ***correspondence instruction may petition the bureau for an***
36 ***alternative method of calculating tuition refunds if they can***
37 ***demonstrate that the method of calculation set forth in***
38 ***subdivision (c) of Section 94820 cannot be utilized.***

39 ***9246. No student may waive any provision of this article. Any***
40 ***waiver or limitation of any substantive or procedural right or***

1 *remedy is in violation of this section and is void and*
2 *unenforceable.*

3
4 *Article 12.1. Enhanced Student Protections for Specified*
5 *Non-Degree Programs*
6

7 *9255. All institutions not subject to Article 12 are subject to*
8 *the requirements of this article.*

9 *9256. (a) When a person executes an agreement obligating*
10 *that person to pay any money to an institution for a course*
11 *program of instruction or related equipment, the institution shall*
12 *provide the person with a document containing only the*
13 *following notice: “NOTICE OF STUDENT RIGHTS (12-point*
14 *bold type) “1. You may cancel your contract for school, without*
15 *any penalty or obligations on the fifth business day following*
16 *your first class session as described in the Notice of Cancellation*
17 *form that will be given to you at (insert “the first class you go*
18 *to” or “with the first lesson in a home study or correspondence*
19 *course,” whichever is applicable). A different cancellation policy*
20 *applies for home study or correspondence courses. Read the*
21 *Notice of Cancellation form for an explanation of your*
22 *cancellation rights and responsibilities. If you have lost your*
23 *Notice of Cancellation form, ask the school for a sample copy.*
24 *“2. After the end of the cancellation period, you also have the*
25 *right to stop school at any time, and you have the right to receive*
26 *a refund for the part of the course not taken. Your refund rights*
27 *are described in the contract. If you have lost your contract, ask*
28 *the school for a description of the refund policy. “3. If the school*
29 *closes before you graduate, you may be entitled to a refund.*
30 *Contact the Bureau for Private Postsecondary Education at the*
31 *address and telephone number printed below for information. “4.*
32 *If you have any complaints, questions, or problems that you*
33 *cannot work out with the school, write or call the Bureau for*
34 *Private Postsecondary Education.*

35 _____ *insert address*
36 *and telephone number of the Bureau for Private Postsecondary*
37 *Education)”*

38 *(b) Except as otherwise provided in subdivision (a), the notice*
39 *required by subdivision (a) shall be printed in 10-point type in*
40 *English and, if any solicitation or negotiation leading to the*

1 agreement for a course of instruction was in a language other
2 than English, in that other language.

3 (c) A copy of the notice, in each language in which the notice
4 was printed pursuant to subdivision (b), shall be posted at all
5 times in a conspicuous place at the main entrance of the
6 institution, in each admissions office, and in each room used for
7 instruction. The bureau may prescribe the size and format of the
8 posted notice. This subdivision does not apply to an institution
9 that exclusively offers correspondence or home study courses.

10 9257. (a) (1) In addition to any other right of rescission, for
11 programs in excess of 50 days, the student shall have the right to
12 cancel an agreement for a program of instruction including any
13 equipment, until midnight of the fifth business day after the day
14 on which the student did any of the following:

15 (A) Attended the first class of the program of instruction that
16 is the subject of the agreement or received the first lesson in a
17 home study or correspondence course.

18 (B) Received a copy of the notice of cancellation as provided
19 in Section 94868.

20 (C) Received a copy of the agreement and the disclosures as
21 required by subdivision (a) of Section 94859, whichever is later.

22 (2) For programs of 50 or fewer days, the student shall have
23 the right to cancel the agreement until midnight of the date that
24 is one business day for every 10 days of scheduled program
25 length, rounded up for any fractional increments thereof. If the
26 first lesson in a home-study or correspondence course is sent to
27 the student by mail, the institution shall send it by first-class
28 mail, postage prepaid, documented by a certificate of mailing,
29 and the student shall have a right to cancel until midnight of the
30 eighth business day after the first lesson was mailed.

31 (b) Cancellation shall occur when the student gives written
32 notice of cancellation to the institution at the address specified in
33 the agreement.

34 (c) The written notice of cancellation, if given by mail, is
35 effective when deposited in the mail properly addressed with
36 postage prepaid.

37 (d) The written notice of cancellation need not take a
38 particular form and, however expressed, is effective if it indicates
39 the student's desire not to be bound by the agreement.

(e) Except as provided in subdivision (f), if the student cancels the agreement, the student shall have no liability, and the institution shall refund any consideration paid by the student within 10 days after the institution receives notice of the cancellation.

(f) If the institution gave the student any equipment, the student shall return the equipment within 10 days following the date of the Notice of Cancellation. If the student fails to return the equipment within this 10 day-period, the institution may retain that portion of the consideration paid by the student equal to the documented cost to the institution of the equipment and shall refund the portion of the consideration exceeding the documented cost to the institution of the equipment within 10 days after the period within which the student is required to return the equipment. The student may retain the equipment without further obligation to pay for it.

9258. The institution shall provide the student with two cancellation forms at the first class attended by the student or with the first lesson in a home study course submitted by the student. The form shall be completed in duplicate, captioned “Notice of Cancellation,” and shall contain the following statement:

“Notice of Cancellation
 _____ (Date) (Enter date of first class, date first lesson received, or date first lesson was mailed, whichever is applicable) “You may cancel this contract for school, without any penalty or obligation by the date stated below. “If you cancel, any payment you have made and any negotiable instrument signed by you shall be returned to you within 30 days following the school’s receipt of your cancellation notice. “But, if the school gave you any equipment, you must return the equipment within 30 days of the date you signed a cancellation notice. If you do not return the equipment within this 30-day period, the school may keep an amount out of what you paid that equals the cost of the equipment. The total amount charged for each item of equipment shall be separately stated. The amount charged for each item of equipment shall not exceed the equipment’s fair market value. The institution shall have the burden of proof to establish the equipment’s fair market value. The school is required to refund any amount over that as provided above, and you may keep the equipment. “To cancel the

1 contract for school, mail or deliver a signed and dated copy of
2 this cancellation notice, or any other written notice, or send a
3 telegram to: _____, at
4 _____. (name of institution)
5 (address of institution) “NOT LATER THAN
6 _____ (Enter midnight of
7 the date that is the fifth business day following the day of the first
8 class or the day the first lesson was received; or, if the program
9 is fifty or fewer days, midnight of the date that is one business
10 day for every 10 days of scheduled program length, rounded up
11 for any fractional increment thereof; or, if the lesson was sent by
12 mail, the eighth business day following the day of mailing,
13 whichever is applicable) “I cancel the contract for school.
14 _____ (Date)
15 _____ (Student’s signature)
16 “REMEMBER, YOU MUST CANCEL IN WRITING. You do not
17 have the right to cancel by just telephoning the school or by not
18 coming to class. “If you have any complaints, questions, or
19 problems which you cannot work out with the school, write or
20 call the Bureau for Private Postsecondary Education:
21 _____ (insert
22 address and telephone number of the Bureau for Private
23 Postsecondary Education)”
24 9259. (a) Each student of an institution has the right to
25 withdraw from a program of instruction at any time.
26 (b) If a student withdraws from a program of instruction after
27 the period described in subdivision (a) of Section 94867, the
28 institution shall remit a refund as provided in Section 94870
29 within 30 days following the student’s withdrawal.
30 (c) If any portion of the tuition was paid from the proceeds of
31 a loan, the refund shall be sent to the lender or, if appropriate, to
32 the state or federal agency that guaranteed or reinsured the loan.
33 Any amount of the refund in excess of the unpaid balance of the
34 loan shall be first used to repay any student financial aid
35 program from which the student received benefits, in proportion
36 to the amount of the benefits received, and any remaining amount
37 shall be paid to the student.
38 (d) Within 10 days of the day on which the refund is made, the
39 institution shall notify the student in writing of the date on which
40 the refund was made, the amount of the refund, the method of

1 calculating the refund, and the name and address of the entity to
2 which the refund was sent. The following statement shall be
3 placed at the top of the notice in at least 10-point boldface type:
4 “This Notice is Important. Keep It For Your Records.”

5 (e) Except for subdivision (a), this section shall not apply to a
6 student if both of the following occur:

7 (1) All of that student’s tuition and fees are paid by a
8 third-party organization, such as a Job Training Partnership Act
9 agency, a Regional Occupational Program or Regional
10 Occupational Center, a Private Industry Council, or a vocational
11 rehabilitation program, if the student is not obligated to repay
12 the third-party organization or does not lose time-limited
13 educational benefits.

14 (2) The third-party organization and the institution have a
15 written agreement, entered into on or before the date the student
16 enrolls, that no refund will be due to the student if the student
17 withdraws prior to completion. The institution shall provide a
18 copy of the written agreement to the bureau. The institution shall
19 disclose to any student whose refund rights are affected by this
20 agreement, in all disclosures required to be given to the student
21 by this chapter, that the student is not entitled to a refund. It is
22 the intent of the Legislature that this subdivision not apply to any
23 student whose tuition and fees are paid with funds provided to
24 the third-party organization for the student’s benefit as part of
25 any program that provides funds for training welfare recipients
26 or that is related to welfare reform.

27 9260. (a) (1) Except as provided in paragraph (2), the
28 refund to be paid to a student for a program of instruction
29 subject to this article shall be calculated as follows:

30 (A) Deduct a registration fee not exceeding seventy-five
31 dollars (\$75) two hundred fifty dollars from the total tuition
32 charge.

33 (B) Divide this figure by the number of hours in the program.

34 (C) The quotient is the hourly charge for the program.

35 (D) The amount owed by the student for purposes of
36 calculating a refund is derived by multiplying the total hours
37 attended by the hourly charge for instruction.

38 (E) The refund would be any amount in excess of the figure
39 derived in subparagraph (D) that was paid by the student.

1 (F) The refund amount shall be adjusted as provided in
2 subdivision (b) or (c) for equipment, if applicable.

3 (2) For an educational service offered by home study or
4 correspondence, the refund shall be the amount the student paid
5 for lessons less a registration fee not exceeding two hundred fifty
6 dollars (\$250), multiplied by a fraction, the numerator of which
7 is the number of lessons for which the student has paid but which
8 the student has not completed and submitted, and the
9 denominator of which is the total number of lessons for which the
10 student has paid. The refund amount shall be adjusted as
11 provided in subdivision (b) or (c) for equipment and as provided
12 in subdivision (d) for resident instruction, if applicable.

13 (3) Notwithstanding any provision in any agreement, all of the
14 following shall apply:

15 (A) All amounts that the student has paid, however
16 denominated, shall be deemed to have been paid for instruction,
17 unless the student has paid a specific charge for equipment set
18 forth in the agreement for the program of instruction.

19 (B) In the case of an educational service offered by home
20 study or correspondence, all amounts that the student has paid,
21 however denominated, shall be deemed to have been paid for
22 lessons unless the student has paid a specific charge for
23 equipment or resident instruction as set forth in the agreement
24 for the educational service.

25 (C) The total number of hours necessary to complete each
26 lesson of home study or correspondence instruction shall be
27 substantially equivalent to each other lesson unless otherwise
28 permitted by the bureau.

29 (D) An equal charge shall be deemed to have been made for
30 each hour of instruction or each lesson.

31 (b) If the institution specifies in the agreement a separate
32 charge for equipment that the student actually obtains and the
33 student returns that equipment in good condition, allowing for
34 reasonable wear and tear, within 30 days following the date of
35 the student's withdrawal, the institution shall refund the charge
36 for the equipment paid by the student. If the student fails to
37 return that equipment in good condition, allowing for reasonable
38 wear and tear, within 30 days following the date of the student's
39 withdrawal, the institution may offset against the refund
40 calculated under subdivision (a) the documented cost to the

1 institution of that equipment. The student shall be liable for the
2 amount, if any, by which the documented cost for equipment
3 exceeds the refund amount calculated under subdivision (a). For
4 the purpose of this subdivision, equipment cannot be returned in
5 good condition if the equipment cannot be reused because of
6 clearly recognized health and sanitary reasons and this fact is
7 clearly and conspicuously disclosed in the agreement.

8 (c) If the institution specifies in the agreement a separate
9 charge for equipment, which the student has not obtained at the
10 time of the student's withdrawal, the refund also shall include the
11 amount paid by the student that is allocable to that equipment.

12 (d) If an agreement for educational service offered by home
13 study or correspondence includes a separate charge for resident
14 instruction, which the student has not begun at the time of the
15 student's withdrawal, the institution shall refund the charge for
16 the resident instruction paid by the student. If the student
17 withdraws from the educational service after beginning the
18 resident instruction, the institution shall pay a refund equal to the
19 amount the student paid for the resident instruction multiplied by
20 a fraction, the numerator of which is the number of hours of
21 resident instruction which the student has not received but for
22 which the student has paid, and the denominator of which is the
23 total number of hours of resident instruction for which the
24 student has paid.

25 (e) For the purpose of determining a refund under this section,
26 a student shall be deemed to have withdrawn from a program of
27 instruction when any of the following occurs:

28 (1) The student notifies the institution of the student's
29 withdrawal or of the date of the student's withdrawal, whichever
30 is later.

31 (2) The institution terminates the student's enrollment as
32 provided in the agreement.

33 (3) The student has failed to attend classes for a three-week
34 period. For the purpose of subdivision (a) of Section 94869 and
35 for determining the amount of the refund, the date of the
36 student's withdrawal shall be deemed the last date of recorded
37 attendance. For the purpose of determining when the refund must
38 be paid pursuant to subdivision (b) of Section 94869, the student
39 shall be deemed to have withdrawn at the end of the three-week
40 period.

1 (4) *The student has failed to submit three consecutive lessons*
2 *or has failed to submit a completed lesson within 60 days of its*
3 *due date as set by an educational service offered by home study*
4 *or correspondence. For the purpose of this paragraph, the date*
5 *of the student's withdrawal shall be deemed to be the date on*
6 *which the student submitted the last completed lesson.*

7 (f) *An institution shall have the burden of proof to establish*
8 *the validity of the amount of every refund. The institution shall*
9 *maintain records for five years of all the evidence on which the*
10 *institution relies.*

11 9261. *Before a person executes an agreement obligating that*
12 *person to pay any money to an institution for a program of*
13 *instruction or related equipment, the institution shall provide the*
14 *person with a written statement set forth in a table of the amount*
15 *of the refund to which the student would be entitled if the student*
16 *withdrew from the program after completing a period of days or*
17 *weeks of instruction equivalent to 10 percent, 25 percent, 50*
18 *percent, 60 percent, and 75 percent of the program of*
19 *instruction. The disclosures required by this paragraph may be*
20 *set forth in the agreement for the course.*

21 9262. (a) *Every institution shall meet all of the following*
22 *performance standards for each program offered during the*
23 *applicable time period described in subdivision (l):*

24 (1) *Sixty percent or more of the students who began the*
25 *program, did not cancel pursuant to Section 94867, and were*
26 *originally scheduled at the time of enrollment to complete the*
27 *course during that period, shall complete it.*

28 (2) *Seventy percent or more of the students who completed the*
29 *program within that period shall obtain employment starting*
30 *within six months after completing the course in the occupations*
31 *or job titles to which the course of instruction was represented to*
32 *lead. For the purpose of this subdivision, "program" or*
33 *"program of instruction" or "course" or "course of instruction"*
34 *includes all courses of instruction, however denominated, that*
35 *are represented to lead to the same or closely related*
36 *occupations or job titles.*

37 (b) *Every institution shall meet all of the following*
38 *performance standards for all programs in the aggregate offered*
39 *by the institution at each of its campuses during the applicable*
40 *time period described in subdivision (l):*

1 (1) Sixty percent or more of all the students who began the
2 programs did not cancel pursuant to Section 94867, and were
3 originally scheduled at the time of enrollment to complete these
4 programs during that time period, shall complete these
5 programs.

6 (2) Seventy percent or more of all the students who completed
7 the programs within that time period shall obtain employment,
8 starting within six months after completing the programs, in the
9 occupations or job titles to which the programs of instruction
10 were represented to lead.

11 (c) For the purposes of subdivisions (a) and (b), students who,
12 as documented by the institution, have been prevented from
13 completing the program or programs of instruction due to death,
14 disability, illness, pregnancy, military service, or participation in
15 the Peace Corps or Domestic Volunteer Service shall be
16 excluded from the computations used to determine whether an
17 institution has met the performance standards prescribed by
18 those subdivisions. Except as provided in Section 94874, an
19 institution shall not disclose the records maintained pursuant to
20 this subdivision unless production of those records are required
21 by any law, subpoena, or court order, or are necessary for a
22 certified public accountant to prepare a compliance report
23 pursuant to subdivision (g) of Section 94870.

24 (d) An institution shall meet the standards prescribed in
25 subdivisions (a) and (b) at each site at which the program or
26 programs are offered. A determination of whether a particular
27 site meets the standards prescribed in subdivisions (a) and (b)
28 shall be based only on students who attended that site. An
29 institution shall be subject to subdivisions (f) and (g) only with
30 respect to its sites that fail to meet the standards prescribed in
31 subdivisions (a) and (b).

32 (e) (1) This subdivision applies only to institutions in which
33 15 or fewer students began a program or programs, did not
34 cancel pursuant to Section 94867, and were originally scheduled
35 to complete the program or programs within the applicable time
36 period described in subdivision (l).

37 (2) If an institution described in paragraph (1) fails to meet
38 any of the standards prescribed in subdivision (a) or (b), but
39 would have met that standard if one additional student had
40 completed or obtained employment, the institution shall be

1 *deemed to comply with this section. If an institution described in*
2 *paragraph (1) fails to meet the standard for review established in*
3 *subdivision (f), but would have met the standard if one additional*
4 *student had completed or obtained employment, the institution*
5 *shall be deemed subject to subdivision (f).*

6 *(f) (1) This subdivision applies only to an institution or any*
7 *site that fails to meet any of the following:*

8 *(A) Any of the standards established in subdivision (a) or (b)*
9 *by 10 percent or less.*

10 *(B) Any of the standards established in subdivision (a), but has*
11 *a placement rate of 42 percent or more for the course in which*
12 *the standard was failed.*

13 *(C) Any of the standards established in subdivision (b), but*
14 *has a placement rate of 42 percent or more for all courses in the*
15 *aggregate.*

16 *(l) (1) An institution's compliance with the standards*
17 *prescribed in subdivisions (a) and (b) shall be determined as of*
18 *the date on which the institution's reporting period ends.*

19 *(2) The institution shall report its determination of its*
20 *compliance with the standards established in subdivisions (a)*
21 *and (b) in each annual report.*

22 *(3) The bureau may adjust the meaning of "time period" if the*
23 *bureau finds that an adjustment is necessary for the efficient*
24 *administration of this section. If any adjustment is made in the*
25 *annual reporting periods, the bureau may adjust when the time*
26 *period commences but shall not alter the two-year length of the*
27 *period.*

28 *(m) In determining the placement rate for a particular time*
29 *period as described in subdivision (l), an institution may exclude*
30 *from the determination a student whose completion date was*
31 *extended beyond that time period if the extension was requested*
32 *by the student in writing on an enrollment agreement*
33 *modification request form that meets specifications established*
34 *by the bureau. The form shall include instructions to the student*
35 *indicating that, when signed by both the student and the*
36 *institution, the request modifies the existing agreement. The form*
37 *shall not be valid unless it provides space for the student to*
38 *complete a handwritten description, in the student's handwriting,*
39 *of the reasons necessitating the extension that are distinctly*
40 *personal to the student and unrelated to the provision of*

1 *educational services or activities of the institution, contains the*
2 *new expected completion date of the program, and is signed and*
3 *dated by the student and the institution. The institution shall*
4 *provide the student a copy of the signed modification request*
5 *form. The institution shall retain the student's original written*
6 *request to modify the enrollment agreement with the original*
7 *enrollment agreement. A student excluded from the placement*
8 *rate determination for a particular time period pursuant to this*
9 *subdivision shall be included in the placement rate determination*
10 *for the next immediately following time period. The institution*
11 *shall state in the institution's annual report the number of*
12 *students for whom an extension was granted.*

13 *(n) In determining the placement rate for a particular time*
14 *period as described in subdivision (l), an institution may exclude*
15 *from the calculation a student who either:*

16 *(1) Decides not to obtain employment and within six months of*
17 *completing the program enrolls in a program to continue his or*
18 *her education to obtain a higher level degree that is related to, or*
19 *provides for the student to use, the same skills or knowledge*
20 *obtained in the program the student completed.*

21 *(2) Is in possession at the completion of the program of a valid*
22 *United States Immigration and Naturalization Service Form I-20.*

23 *(o) In determining the placement rate for a particular time*
24 *period as described in subdivision (l), an institution may count a*
25 *student who drops out of the program after completing at least*
26 *75 percent of the program because the student has obtained*
27 *employment which lasts for a period of at least 60 days in the*
28 *occupations or job titles to which the program of instruction is*
29 *represented to lead. No more than 10 percent of the institution's*
30 *total number of placed students may be counted pursuant to this*
31 *subdivision.*

32 *(p) If an order to cease offering a program or a revocation is*
33 *issued pursuant to this section, the bureau may permit the*
34 *institution to continue to offer the program or programs of*
35 *instruction to the students who had begun the course or courses*
36 *before the effective date of the order or revocation or may order*
37 *the institution to cease instruction and provide a refund of tuition*
38 *and all other charges to students.*

39 *9263. No student may waive any provision of this article. Any*
40 *waiver or limitation of any substantive or procedural right or*

1 *remedy is in violation of this section and is void and*
2 *unenforceable.*

3
4 *Article 12.5. Student Tuition Recovery Fund*
5

6 9275. (a) *The Student Tuition Recovery Fund is continued in*
7 *existence. All assessments collected pursuant to Section 94945*
8 *shall be credited to this fund, along with any interest on the*
9 *moneys, for the administration of this article. Notwithstanding*
10 *Section 13340 of the Government Code, the moneys in the fund*
11 *are continuously appropriated to the bureau without regard to*
12 *fiscal years for the purposes of this chapter. The fund shall*
13 *consist of assessments from degree-granting postsecondary*
14 *educational institutions, vocational educational institutions, and*
15 *institutions approved under any provision of this chapter that*
16 *charge each enrolled student a total charge, as defined in*
17 *subdivision (k) of Section 94852, of less than one thousand*
18 *dollars (\$1,000), for the purpose of relieving or mitigating*
19 *pecuniary losses suffered by any California resident who is a*
20 *student of an approved institution and who meets either of the*
21 *following conditions:*

22 (1) (A) *The student was enrolled in an institution, prepaid*
23 *tuition, and suffered loss as a result of any of the following:*

24 (i) *The closure of the institution.*

25 (ii) *The institution's failure to pay refunds or charges on*
26 *behalf of a student to a third party for license fees or any other*
27 *purposes, or to provide equipment or materials for which a*
28 *charge was collected within 180 days before the closure of the*
29 *institution.*

30 (iii) *The institution's failure to pay or reimburse loan*
31 *proceeds under a federally guaranteed student loan program as*
32 *required by law or to pay or reimburse proceeds received by the*
33 *institution prior to closure in excess of tuition and other costs.*

34 (iv) *The institution's breach or anticipatory breach of the*
35 *agreement for the course of instruction.*

36 (v) *A decline in the quality or value of the course of instruction*
37 *within the 30-day period before the closure of the institution or,*
38 *if the decline began before that period, the period of decline*
39 *determined by the bureau.*

1 (vi) *The commission of a fraud by the institution during the*
2 *solicitation or enrollment of, or during the program participation*
3 *of, the student.*

4 (B) *For the purposes of this section, “closure” includes*
5 *closure of a branch or satellite campus, the termination of either*
6 *the correspondence or residence portion of a home study or*
7 *correspondence course, and the termination of a course of*
8 *instruction for some or all of the students enrolled in the course*
9 *before the time these students were originally scheduled to*
10 *complete it, or before a student who has been continuously*
11 *enrolled in a course of instruction has been permitted to*
12 *complete all the educational services and classes that comprise*
13 *the course.*

14 (2) *The student obtained a judgment against the institution for*
15 *any violation of this chapter, and the student certifies that the*
16 *judgment cannot be collected after diligent collection efforts. A*
17 *court judgment obtained under this paragraph shall be paid in*
18 *accordance with paragraph (1) of subdivision (f), unless the*
19 *judgment indicates that a lesser amount is due.*

20 (b) (1) (A) *The institution shall provide to the bureau, at the*
21 *time of the institution’s closure, the names and addresses of*
22 *persons who were students of an institution within 60 days prior*
23 *to its closure, and shall notify these students, within 30 days of*
24 *the institution’s closure, of their rights under the fund and how to*
25 *apply for payment. If the institution fails to comply with this*
26 *subdivision, the bureau shall attempt to obtain the names and*
27 *addresses of these students and shall notify them, within 90 days*
28 *of the institution’s closure, of their rights under the fund and how*
29 *to apply for payment. This notice shall include the explanation*
30 *and the claim form described in subparagraph (B).*

31 (B) *The bureau shall develop a form in English and Spanish*
32 *fully explaining a student’s rights, which shall be used by the*
33 *institution or the bureau to comply with the requirements of*
34 *subparagraph (A). The form shall include, or be accompanied*
35 *by, a claim application and an explanation of how to complete*
36 *the application.*

37 (2) (A) *If an institution fails to comply with paragraph (1), the*
38 *bureau shall order the institution, or any person responsible for*
39 *the failure to provide notice as required by paragraph (1), to*
40 *reimburse the bureau for all reasonable costs and expenses*

1 incurred in notifying students as required in paragraph (1). In
2 addition, the bureau may impose a penalty of up to five thousand
3 dollars (\$5,000) against the institution and any person found
4 responsible for the failure to provide notice. The amount of the
5 penalty shall be based on the degree of culpability and the ability
6 to pay. Any order may impose joint and several liability. Before
7 any order is made pursuant to this paragraph, the bureau shall
8 provide written notice to the institution and any person from
9 whom the bureau seeks recovery of the bureau's claim and of the
10 right to request a hearing within 30 days of the service of the
11 notice.

12 (B) If a hearing is not requested within 30 days of service of
13 the notice, the bureau may order payment in the amount of the
14 claim. If a hearing is requested, Chapter 5 (commencing with
15 Section 11500) of Part 1 of Division 3 of Title 2 of the
16 Government Code shall apply, and the bureau shall have all of
17 the powers therein prescribed. Within 30 days after the effective
18 date of the issuance of an order, the bureau may enforce the
19 order in the same manner as if it were a money judgment
20 pursuant to Title 9 (commencing with Section 680.010) of Part 2
21 of the Code of Civil Procedure. All penalties and reimbursements
22 paid pursuant to this section shall be deposited in the Private
23 Postsecondary and Vocational Education Administration Fund
24 established pursuant to Section 94932 or any successor fund.

25 (c) (1) Students entitled to payment as provided in paragraph
26 (1) of subdivision (a) shall file with the bureau a verified
27 application indicating each of the following:

28 (A) The student's name, address, telephone number, and
29 social security number.

30 (B) If any portion of the tuition was paid from the proceeds of
31 a loan, the name of the lender, and any state or federal agency
32 that guaranteed or reinsured the loan.

33 (C) The amount of the paid tuition, the amount and description
34 of the student's loss, and the amount of the student's claim.

35 (D) The date the student started and ceased attending the
36 institution.

37 (E) A description of the reasons the student ceased attending
38 the institution.

39 (F) If the student ceased attending because of a breach or
40 anticipatory breach or because of the decline in the quality or

1 value of the course of instruction as described in clause (v) of
2 subparagraph (A) of paragraph (1) of subdivision (a), a
3 statement describing in detail the nature of the loss incurred. The
4 application shall be filed within one year from the date of the
5 notice, as described in paragraph (1) of subdivision (c). If no
6 notice is received by the student from the bureau soon after the
7 school closes, the application shall be filed within four years of
8 the institution's closure, or within two years of the student's or
9 former student's receipt of an explanation of his or her rights
10 and a claim form, whichever of those claim periods expires later.
11 The two-year claim period shall begin on the day the student or
12 former student receives from the bureau both an explanation
13 regarding how to file a claim and a claim application, as
14 provided in subparagraph (B) of paragraph (1) of subdivision
15 (c), or on the day the second of the two documents is received, if
16 they are received on different dates. If the claimant's primary
17 language is Spanish, the notice and explanation shall be sent in
18 Spanish.

19 (G) Nothing in this subdivision shall preclude the filing of a
20 single, unified application that aggregates the claims of similarly
21 situated students.

22 (2) (A) Students entitled to payment as provided in paragraph
23 (2) of subdivision (a) shall file with the bureau a verified
24 application indicating the student's name, address, telephone
25 number, and social security number, the amount of the judgment
26 obtained against the institution, a statement that the judgment
27 cannot be collected, and a description of the efforts attempted to
28 enforce the judgment. The application shall be accompanied by a
29 copy of the judgment and any other documents indicating the
30 student's efforts made to enforce the judgment.

31 (B) The application shall be filed within two years after the
32 date upon which the judgment became final.

33 (3) The bureau may require additional information designed
34 to facilitate payment to entitled students. The bureau shall waive
35 the requirement that a student provide all of the information
36 required by this subdivision if the bureau has the information or
37 the information is not reasonably necessary for the resolution of
38 a student's claim.

1 (4) *Nothing in this subdivision shall be construed to preclude*
2 *the filing of a single, unified application that aggregates the*
3 *claims of similarly situated students.*

4 (d) *Within 60 days of the bureau's receipt of a completed*
5 *application for payment, the bureau shall pay the claim from the*
6 *Student Tuition Recovery Fund or deny the claim. The bureau,*
7 *for good cause, may extend the time period for up to an*
8 *additional 90 days to investigate the accuracy of the claim.*

9 (e) (1) *If the bureau pays the claim, the amount of the payment*
10 *shall be (A) the greater of either (i) the total guaranteed student*
11 *loan debt incurred by the student in connection with attending*
12 *the institution, or (ii) the total of the student's tuition and the cost*
13 *of equipment and materials related to the course of instruction,*
14 *less (B) the amount of any refund, reimbursement,*
15 *indemnification, restitution, compensatory damages, settlement,*
16 *debt forgiveness, discharge, cancellation, or compromise, or any*
17 *other benefit received by, or on behalf of, the student before the*
18 *bureau's payment of the claim in connection with the student*
19 *loan debt or cost of tuition, equipment, and materials. The*
20 *payment also shall include the amount the institution collected*
21 *and failed to pay to third parties on behalf of the student for*
22 *license fees or any other purpose. However, if the claim is based*
23 *solely on the circumstances described in subparagraph (B) or*
24 *(C) of paragraph (1) of subdivision (a), the amount of the*
25 *payment shall be the amount of the loss suffered by the student.*
26 *In addition to the amount determined under this paragraph, the*
27 *amount of the payment shall include all interest and collection*
28 *costs on all student loan debt incurred by the student in*
29 *connection with attending the institution.*

30 (2) *The bureau may reduce the total amount specified in*
31 *paragraph (1) by the value of the benefit, if any, of the education*
32 *obtained by the student before the closure of the institution. If the*
33 *bureau makes any reduction pursuant to this paragraph, the*
34 *bureau shall notify the claimant in writing, at the time the claim*
35 *is paid, of the basis of its decision and provide a brief*
36 *explanation of the reasons upon which the bureau relied in*
37 *computing the amount of the reduction.*

38 (3) *No reduction shall be made to the amount specified in*
39 *paragraph (1) if (A) the student did not receive adequate*
40 *instruction to obtain the training, skills, or experience, or*

1 *employment to which the instruction was represented to lead, (B)*
2 *credit for the instruction obtained by the student is not generally*
3 *transferable to other institutions approved by the bureau, or (C)*
4 *the institution or one of its representatives fraudulently*
5 *misrepresented to students the likely starting salary or job*
6 *availability, or both, after training.*

7 *(4) The amount of the payment determined under this*
8 *subdivision is not dependent on the amount of the refund to*
9 *which the student would have been entitled after a voluntary*
10 *withdrawal.*

11 *(5) Upon payment of the claim, all of the student's rights*
12 *against the institution shall be deemed assigned to the bureau to*
13 *the extent of the amount of the payment.*

14 *(f) (1) The bureau shall negotiate with a lender, holder,*
15 *guarantee agency, or the United States Department of Education*
16 *for the full compromise or writeoff of student loan obligations to*
17 *relieve students of loss and thereby reduce the amount of student*
18 *claims*

19 *(2) The bureau, with the student's permission, may pay a*
20 *student's claim directly to the lender, holder, guarantee agency,*
21 *or the United States Department of Education under a federally*
22 *guaranteed student loan program only if the payment of the*
23 *claim fully satisfies all of the student's loan obligations related to*
24 *attendance at the institution for which the claim was filed.*

25 *(3) Notwithstanding subdivision (d), the bureau may delay the*
26 *payment of a claim pending the resolution of the bureau's*
27 *attempt to obtain a compromise or writeoff of the claimant's*
28 *student loan obligation. However, the bureau shall immediately*
29 *pay the claim if any adverse action that is not stayed is taken*
30 *against the claimant, including the commencement of a civil or*
31 *administrative action, tax offset, the enforcement of a judgment,*
32 *or the denial of any government benefit.*

33 *(4) The bureau shall make every reasonable effort to obtain a*
34 *loan discharge for an eligible student in lieu of reimbursing that*
35 *student in whole or in part from the fund pursuant to federal*
36 *student loan laws and regulations.*

37 *(5) Whenever the bureau receives from a student a completed*
38 *application for payment from the Student Tuition Recovery Fund,*
39 *the bureau shall, as soon as is practicable, cause to be delivered*

1 to that student a written notice specifying, in plain English, the
2 rights of a student under this section.

3 (g) (1) If the bureau denies the claim, or reduces the amount
4 of the claim pursuant to paragraph (2) of subdivision (e), the
5 bureau shall notify the student of the denial or reduction and of
6 the student's right to request a hearing within 60 days or any
7 longer period permitted by the bureau. If a hearing is not
8 requested within 60 days or any additional period reasonably
9 requested by the student, the bureau's decision shall be final. If a
10 hearing is requested, Chapter 5 (commencing with Section
11 11500) of Part 1 of Division 3 of Title 2 of the Government Code
12 shall apply.

13 (2) It is the intent of the Legislature that, when a student is
14 enrolled in an institution that closes prior to the completion of
15 the student's program, the student shall have the option for a
16 teach-out at another institution approved by the bureau. The
17 bureau shall seek to promote teach-out opportunities wherever
18 possible and shall inform the student of his or her rights,
19 including payment from the fund, transfer opportunities, and
20 available teach-out opportunities, if any.

21 (h) This section applies to all claims filed or pending under
22 former Chapter 7 (commencing with Section 94700) of the
23 Education Code after January 1, 1990.

24 (i) Once the bureau has determined that a student claim is
25 eligible for payment under this section and intends to use the
26 Student Tuition Recovery Fund, in whole or in part, to satisfy the
27 eligible claim, the bureau shall document its negotiations with
28 the relevant lender, holder or guarantee agency, the United
29 States Department of Education, or the applicable state agency.
30 The bureau shall prepare a written summary of the parties and
31 results of the negotiations, including the amounts offered and
32 accepted, the discounts requested and granted, and any other
33 information that is available to any party that files a request for
34 this information with the bureau.

35 (j) The moneys deposited in the fund shall be exempt from
36 execution and shall not be the subject of litigation or liability on
37 the part of creditors of those institutions or students.

38 9276. (a) The bureau shall assess each institution, including
39 a non-WASC regionally accredited institution, as defined in
40 Section _____, except for an institution that receives all of its

1 students' total charges, as defined in subdivision (k) of Section
2 _____, from third-party payers for the purpose of compliance with
3 the provisions of this chapter that are related to the Student
4 Tuition Recovery Fund. A third-party payer, for the purposes of
5 this section, means an employer, government program, or other
6 payer that pays a student's total charges directly to the
7 institution when no separate agreement for the repayment of that
8 payment exists between the third-party payer and the student. A
9 student who receives third-party payer benefits for his or her
10 institutional charges is not eligible for benefits from the Student
11 Tuition Recovery Fund.

12 (1) (A) The amount assessed each institution shall be
13 calculated only for those students who are California residents
14 and who are eligible to be reimbursed from the fund. It shall be
15 based on the actual amount charged each of these students for
16 total tuition cost, regardless of the portion that is prepaid, and
17 shall be assessed as tuition is paid or loans are funded on behalf
18 of the student, based upon academic term. The amount of the
19 assessment on an institution shall be determined in accordance
20 with paragraphs (2) and (3).

21 (B) Each institution shall collect the amount assessed by the
22 bureau in the form of a Student Tuition Recovery Fund fee from
23 its new students, and remit these fees to the bureau during the
24 quarter immediately following the quarter in which the fees were
25 collected from the students, or from loans funded on behalf of the
26 students, except that an institution may waive collection of the
27 Student Tuition Recovery Fund fee and assume the fee as a debt
28 of the institution. The fees collected by the institution shall be
29 placed in a separate bank or trust account and not commingled
30 with any other moneys until the institution remits those fees to the
31 bureau. The student's subsequent disenrollment at the institution
32 shall not relieve the institution of the obligation to pay the fee to
33 the bureau, nor be the basis for refund of the fee to the student.
34 An institution may not charge a fee of any kind for the collection
35 of the Student Tuition Recovery Fund fee. An institution may
36 refuse to enroll a student who has not paid, or made provisions
37 to pay, the appropriate Student Tuition Recovery Fund fee.

38 (C) For the purposes of this section, a "new student" means a
39 student who signs his or her enrollment agreement on or after
40 January 1, 2002. Those students who sign their enrollment

1 agreement prior to January 1, 2002, are not “new students” for
2 purposes of this section, and shall be assessed the Student
3 Tuition Recovery Fund fee in effect prior to January 1, 2002,
4 except that an institution may waive collection of the Student
5 Tuition Recovery Fund fee in effect prior to January 1, 2002.
6 Institutions electing to waive collection of the Student Tuition
7 Recovery Fund fee shall disclose this fact to the student in the
8 enrollment agreement, along with the amount of the fee paid on
9 the student’s behalf to the bureau.

10 (2) The amount collected from a new student by an institution
11 shall be calculated on the basis of the course tuition paid over
12 the current calendar year, based upon the assessment rate in
13 effect when the student enrolled at the institution, without regard
14 to the length of time the student’s program of instruction lasts.
15 For purposes of annualized payment, a new student enrolled in a
16 course of instruction that is longer than one calendar year in
17 duration shall pay fees for the Student Tuition Recovery Fund
18 based on the amount of tuition collected during the current
19 calendar year. The amounts ____.

20 (3) The assessment made pursuant to this section shall be
21 made in accordance with both of the following:

22 (A) Each new student shall pay a Student Tuition Recovery
23 Fund assessment for the period of January 1, 2002, to December
24 31, 2002, inclusive, at the rate of three dollars (\$3) per thousand
25 dollars of tuition paid, rounded to the nearest thousand dollars.

26 (B) Commencing January 1, 2003, Student Tuition Recovery
27 Fund fees shall be collected from new students at the rate of two
28 dollars and fifty cents (\$2.50) per thousand dollars of tuition
29 charged, rounded to the nearest thousand dollars. For new
30 students signing enrollment agreements between January 1,
31 2002, and December 31, 2002, inclusive, the assessment rate of
32 three dollars (\$3) per thousand dollars of tuition paid, rounded
33 to the nearest thousand dollars, as provided in subparagraph (A)
34 of this paragraph, shall remain the assessment rate for the
35 duration of the student’s enrollment agreement.

36 (4) The bureau may levy additional reasonable special
37 assessments on an institution under this section only if these
38 assessments are required to ensure that sufficient funds are
39 available to satisfy the anticipated costs of paying student claims
40 pursuant to Section 94944.

1 (5) (A) *The bureau may not levy a special assessment unless*
2 *the balance in the Student Tuition Recovery Fund falls below two*
3 *hundred fifty thousand dollars (\$250,000), as certified by the*
4 *Secretary of the State and the State and Consumer Services*
5 *Agency.*

6 (B) *A special assessment is a surcharge, collected by each*
7 *institution from newly enrolled students, of up to 100 percent of*
8 *that institution's regular assessment for four consecutive*
9 *quarters. The affected student shall pay the surcharge*
10 *simultaneously with his or her regular quarterly payment to the*
11 *Student Tuition Recovery Fund.*

12 (C) *The bureau shall provide at least 90 days' notice of an*
13 *impending special assessment to each affected institution. This*
14 *notice shall also be posted on the bureau's Internet Web site.*

15 (D) *The bureau may apply any special assessment payments*
16 *that it receives from an institution as a credit toward that*
17 *institution's current or future obligations to the Student Tuition*
18 *Recovery Fund.*

19 (6) *The assessments and special assessments shall be paid into*
20 *the Student Tuition Recovery Fund and the deposits shall be*
21 *allocated, except as otherwise provided for in this chapter, solely*
22 *for the payment of valid claims to students. Unless additional*
23 *reasonable assessments are required, no shall be levied during*
24 *any fiscal year if, as of June 30 of the prior fiscal year, the*
25 *balance in the fund exceeds ten million dollars (\$10,000,000).*
26 *However, regardless of the balance in the fund, assessments shall*
27 *be made on any newly approved institution. Notwithstanding*
28 *Section 13340 of the Government Code, the moneys so deposited*
29 *in the fund are continuously appropriated to the bureau for the*
30 *purpose of paying claims to students pursuant to Section 94944.*

31 (b) *The bureau's costs of administration of the tuition*
32 *recovery program authorized by Section 94944 and this section*
33 *shall not be paid from the fund but shall be paid from the Private*
34 *Postsecondary and Vocational Education Fund. Institutions,*
35 *including any non-WASC regionally accredited institution, as*
36 *defined in Section 94740.5, except for schools of cosmetology*
37 *licensed pursuant to Article 8 (commencing with Section 7362) of*
38 *Chapter 10 of Division 3 of the Business and Professions Code*
39 *and institutions that offer vocational or job training programs,*
40 *that meet the student tuition indemnification requirements of a*

1 California state agency, that secure a policy of surety or
2 insurance from an admitted insurer protecting their students
3 against loss of paid tuition, or that demonstrate to the bureau
4 that an acceptable alternative method of protecting their students
5 against loss of prepaid tuition has been established, shall be
6 exempted from this section.

7 (c) In the event of a closure by any approved institution under
8 this chapter, any assessments that have been made against those
9 institutions, but have not been paid into the fund, shall be
10 recovered. Any payments from the fund made to students on
11 behalf of any institution shall be recovered from that institution.

12 (d) In addition to civil remedies, the bureau may order an
13 institution to pay previously unpaid assessments or to reimburse
14 the bureau for any payments made from the fund in connection
15 with the institution. Before any order is made pursuant to this
16 section, the bureau shall provide written notice to the institution
17 and notice of the institution's right to request a hearing within 30
18 days of the service of the notice. If a hearing is not requested
19 within 30 days of the service of the notice, the bureau may order
20 payment. If a hearing is requested, Chapter 5 (commencing with
21 Section 11500) of Part 1 of Division 3 of Title 2 of the
22 Government Code shall apply, and the bureau shall have all
23 powers prescribed in that chapter. Within 30 days after the
24 effective date of the issuance of the order, the bureau may
25 enforce the order in the same manner as if it were a money
26 judgment pursuant to Title 9 (commencing with Section 680.010)
27 of Part 2 of the Code of Civil Procedure.

28 (e) In addition to any other action that the bureau may take
29 under this chapter, the bureau may suspend or revoke an
30 institution's approval to operate because of the institution's
31 failure to pay assessments when due or failure to pay
32 reimbursement for any payments made from the fund within 30
33 days of the bureau's demand for payment.

34 (f) The moneys deposited in the fund shall be exempt from
35 execution and shall not be the subject of litigation or liability on
36 the part of creditors of those institutions or students.

37 (g) Any institution that fails to remit fees to the bureau within
38 the time specified by this section, shall pay a penalty of one
39 quarter percent (.25 %) per day on any delinquent fee amounts.

1 *Those late fee penalties shall also be deposited in the fund solely*
2 *for use in paying student claims.*

3 9277. (a) Any institution that violates Section _____ shall be
4 subject to the provisions of Article 13.

5 (a) (b) Any institution that willfully violates Section 94945
6 shall be subject to all of the following:

7 (1) The institution shall lose all rights to enforce the terms of
8 any contract or agreement arising from the transaction in which
9 the violation occurred.

10 (2) The institution shall refund to the student any fees that it
11 has collected from that student.

12 (b) (c) An institution's willful violation of Section 94945 may
13 be grounds for the revocation of that institution's approval to
14 operate in this state.

15 9278. Students enrolling in institutions that come under
16 Sections 94944 and 94945, shall disclose in writing, if
17 applicable, the source of any and all guaranteed or insured loans
18 granted for the purposes of paying tuition to that institution. In
19 the event of a closure of any institution, the bureau shall provide
20 any lending institution that is the source of any guaranteed or
21 insured student loan with the names of students maintaining
22 loans with that lending institution.

23 9279. (a) The governing board or other governing authority
24 of any private postsecondary or vocational educational
25 institution shall adopt rules providing for the withholding of
26 institutional services from students or former students who have
27 been notified, in writing, at the student's or former student's last
28 known address, that he or she is in default on a loan or loans
29 under either of the following loan programs:

30 (1) The Stafford Student Loan program.

31 (2) The Supplemental Loans for Students program.

32 (3) Any program directly or indirectly financed by the
33 California Educational Facilities Authority.

34 "Default," as used in this section, with respect to a loan under
35 the Stafford Student Loan program or Supplemental Loans for
36 Students program means the failure of a borrower to make an
37 installment payment when due, or to meet other terms of the
38 promissory note under circumstances where the guarantee
39 agency finds it reasonable to conclude that the borrower no
40 longer intends to honor the obligation to repay, provided that

1 *this failure persists for 180 days for a loan repayable in monthly*
2 *installments, or 240 days for a loan repayable in less frequent*
3 *installments. “Default,” as used in this section, with respect to a*
4 *program directly or indirectly financed by the California*
5 *Educational Facilities Authority, means the failure of a borrower*
6 *to make an installment payment when due, or to meet other terms*
7 *of the loan, within that period and under the circumstances*
8 *determined by the California Educational Facilities Authority*
9 *with respect to that program.*

10 *(b) The rules adopted pursuant to subdivision (a) shall provide*
11 *that the services withheld may be provided during a period when*
12 *the facts are in dispute and when the student or former student*
13 *demonstrates to either the governing board or other appropriate*
14 *governing authority of the institution, or the Student Aid*
15 *Commission and the appropriate entity or its designee, that*
16 *reasonable progress has been made to repay the loan or that*
17 *there exists a reasonable justification for the delay as determined*
18 *by the institution. The rules shall specify the services to be*
19 *withheld from the student and may include, but are not limited to,*
20 *the following:*

21 *(1) The provision of grades.*

22 *(2) The provision of transcripts.*

23 *(3) The provision of diplomas.*

24 *The rules shall not include the withholding of registration*
25 *privileges.*

26 *(c) When it has been determined that an individual is in*
27 *default on a loan or loans under either of the loan programs*
28 *specified in subdivision (a), the Student Aid Commission shall*
29 *give notice of the default to all institutions through which that*
30 *individual acquired the loan or loans.*

31 *(d) Guarantors, or those who act as their agents or act under*
32 *their control, who provide information to institutions pursuant to*
33 *this section, shall defend, indemnify, and hold harmless the*
34 *governing board or other governing authority of the institutions*
35 *from action resulting from compliance with this section when the*
36 *action arises as a result of incorrect, misleading, or untimely*
37 *information provided to the institution by the guarantors, their*
38 *agents, or those acting under the control of the guarantors.*

39
40 *Article 13. Enforcement*

1 9300. No institution, or representative of that institution shall
2 do any of the following:

3 (a) Operate in this state a postsecondary educational
4 institution not exempted from this chapter, unless the institution
5 is currently approved to operate pursuant to this chapter. The
6 bureau may institute an action, pursuant to Section _____, to
7 prevent any individual or entity from operating an institution in
8 this state that has not been approved to operate pursuant to this
9 chapter and to obtain any relief authorized by that section.

10 (b) Offer in this state, as or through an agent, enrollment or
11 instruction in, or the granting of educational credentials from, an
12 institution not exempted from this chapter, whether that
13 institution is within or outside this state, unless that agent is a
14 natural person and has a currently valid agent's permit issued
15 pursuant to this chapter, or accept contracts or enrollment
16 applications from an agent who does not have a current permit
17 as required by this chapter.

18 9301. The bureau may refuse to issue or renew any private
19 postsecondary or vocational educational institution's approval to
20 operate, or may revoke any approval to operate for any one, or
21 any combination, of the following causes:

22 (a) A violation of this chapter, or any standard, rule, or
23 regulation established under this chapter, or an order of the
24 bureau made under this chapter.

25 (b) Furnishing false, misleading, or incomplete information to
26 the bureau, or the failure to furnish information requested by the
27 bureau or required by this chapter.

28 (c) The failure of the institution to maintain the minimum
29 educational standards prescribed by this chapter, or to maintain
30 standards that are the same as, or substantially equivalent to,
31 those represented in the school's applications and advertising.

32 (d) Paying a commission or valuable consideration to any
33 persons for acts or services in violation of this chapter.

34 9302. No institution, or representative of that institution shall
35 do any of the following:

36 (a) Instruct or educate, or offer to instruct or educate,
37 including soliciting for those purposes, enroll or offer to enroll,
38 contract or offer to contract with any person for that purpose, or
39 award any educational credential, or contract with any
40 institution or party to perform any act, in this state, whether that

1 person, agent, group, or entity is located within or without this
2 state, unless that person, agent, group, or entity observes and is
3 in compliance with the minimum standards set forth in this
4 article and Article ____ (commencing with Section ____), if it is
5 applicable, the criteria established by the bureau pursuant to
6 subdivision ____ of Section ____, and the regulations adopted by
7 the bureau pursuant to subdivision ____ of Section ____.

8 (b) Use, or allow the use of, any reproduction or facsimile of
9 the Great Seal of the State of California on any diploma.

10 (c) Promise or guarantee employment.

11 (d) Advertise concerning job availability, degree of skill and
12 length of time required to learn a trade or skill unless the
13 information is accurate and in no way misleading.

14 (e) Advertise, or indicate in any promotional material, that
15 correspondence instruction, or correspondence courses of study
16 are offered without including in all advertising or promotional
17 material the fact that the instruction or programs of study are
18 offered by correspondence or home study.

19 (f) Advertise, or indicate in any promotional material, that
20 resident instruction, or programs of study are offered without
21 including in all advertising or promotional material the location
22 where the training is given or the location of the resident
23 instruction.

24 (g) Solicit students for enrollment by causing any
25 advertisement to be published in "help wanted" columns in any
26 magazine, newspaper, or publication or use "blind" advertising
27 that fails to identify the school or institution.

28 (h) Advertise, or indicate in any promotional material, that the
29 institution is accredited, unless the institution has been
30 recognized or approved as meeting the standards established by
31 an accrediting agency recognized by the United States
32 Department of Education or the Committee of Bar Examiners for
33 the State of California.

34 (i) Fail to comply with federal requirements relating to the
35 disclosure of information to students regarding vocational and
36 career training programs, as described in Section ____.

37 9303. (a) No institution or representative of an institution
38 shall make or cause to be made any statement that is in any
39 manner untrue or misleading, either by actual statement,
40 omission, or intimation.

1 ***(b) No institution or representative of an institution shall***
2 ***engage in any false, deceptive, misleading, or unfair act in***
3 ***connection with any matter, including the institution's***
4 ***advertising and promotion, the recruitment of students for***
5 ***enrollment in the institution, the offer or sale of a program of***
6 ***instruction, course length, course credits, the withholding of***
7 ***equipment, educational materials, or loan or grant funds from a***
8 ***student, training and instruction, the collection of payments, or***
9 ***job placement.***

10 ***(c) An institution is liable in any civil or administrative action***
11 ***or proceeding for any violation of this article committed by a***
12 ***representative of the institution. An institution is liable in a***
13 ***criminal action for violations of this article committed by a***
14 ***representative of the institution to the extent permitted by law.***

15 ***(d) (1) No institution or representative of an institution shall***
16 ***induce a person to enter into an agreement for a program of***
17 ***instruction by offering to compensate that person to act as the***
18 ***institution's representative in the solicitation, referral, or***
19 ***recruitment of others for enrollment in the institution.***

20 ***(2) No institution or representative of an institution shall offer***
21 ***to pay or pay any consideration to a student or prospective***
22 ***student to act as a representative of the institution with regard to***
23 ***the solicitation, referral, or recruitment of any person for***
24 ***enrollment in the institution in either of the following:***

25 ***(A) During the 60-day period following the date on which the***
26 ***student began the program.***

27 ***(B) At any subsequent time, if the student has not maintained***
28 ***satisfactory academic progress in acquiring the necessary level***
29 ***of education, training, skill, and experience to obtain***
30 ***employment in the occupation or job title to which the program is***
31 ***represented to lead. The institution shall have the burden of***
32 ***proof to establish that the student has maintained satisfactory***
33 ***academic progress.***

34 ***(e) No institution shall compensate a representative involved***
35 ***in recruitment, enrollment, admissions, student attendance, or***
36 ***sales of equipment to students on the basis of a commission,***
37 ***commission draw, bonus, quota, or other similar method except***
38 ***as follows:***

1 (1) *If the program of instruction is scheduled to be completed*
2 *in 90 days or less, the institution shall pay compensation related*
3 *to a particular student only if that student completes the course.*

4 (2) *If the program of instruction is scheduled to be completed*
5 *in more than*

6 *90 days, the institution shall pay compensation related to a*
7 *particular student as follows:*

8 (A) *No compensation shall be paid for at least 90 days after*
9 *that student has begun the program.*

10 (B) *Up to one-half of the compensation may be paid before the*
11 *student completes the program only if the student has made*
12 *satisfactory academic progress, documented by the institution in*
13 *the student's file, for more than 90 days.*

14 (C) *The remainder of the compensation shall be paid only*
15 *after the student's completion of the program. This subdivision*
16 *shall not prevent the payment at any time of an hourly, weekly,*
17 *monthly, or annual wage or salary.*

18 (f) *No institution or representative of an institution shall pay*
19 *any consideration to a person to induce that person to sign an*
20 *agreement for a program of instruction.*

21 (g) *No institution shall use a misleading name in any manner*
22 *implying any of the following:*

23 (1) *The institution is affiliated with any governmental agency,*
24 *public or private corporation, agency, or association.*

25 (2) *The institution is a public institution.*

26 (3) *The institution grants degrees.*

27 (h) (1) *No institution or any representative of an institution*
28 *shall in any manner make any untrue or misleading change in, or*
29 *untrue or misleading statement related to, any test score, grade,*
30 *record of grades, attendance record, record indicating student*
31 *completion or employment, financial information, including any*
32 *of the following:*

33 (A) *Any financial report required to be filed pursuant to*
34 *Sections 94804 to 94808, inclusive.*

35 (B) *Any information or record relating to the student's*
36 *eligibility for financial assistance or attendance at the institution.*

37 (C) *Any other record or document required by this chapter or*
38 *by the bureau.*

39 (2) *No institution or any representative of an institution shall*
40 *falsify, destroy, or conceal any record or other item described in*

1 *paragraph (1) while that record or item is required to be*
2 *maintained by this chapter or by the bureau.*

3 *(i) No institution or representative of an institution shall use*
4 *the terms “approval,” “approved,” “approval to operate,” or*
5 *“approved to operate” without stating clearly and conspicuously*
6 *that approval to operate means compliance with minimum state*
7 *standards and does not imply any endorsement or*
8 *recommendation by the state or by the bureau. If the bureau has*
9 *granted an institution approval to operate, the institution or its*
10 *representative may indicate that the institution is “licensed” or*
11 *“licensed to operate” but may not state or imply any of the*
12 *following:*

13 *(1) The institution or its programs of instruction are endorsed*
14 *or recommended by the state or by the bureau.*

15 *(2) The bureau’s grant to the institution of approval to operate*
16 *indicates that the institution exceeds minimum state standards.*

17 *(3) The bureau or the state endorses or recommends the*
18 *institution.*

19 *(j) No institution offering programs or courses of instruction*
20 *represented to lead to occupations or job titles requiring*
21 *licensure shall enter into an agreement for a course of*
22 *instruction with a person whom the institution knows or, by the*
23 *exercise of reasonable care, should know, would be ineligible to*
24 *obtain licensure in the occupation or job title to which the course*
25 *of instruction is represented to lead, at the time of the scheduled*
26 *date of course completion, for reasons such as age, physical*
27 *characteristics, or relevant past criminal conviction.*

28 *(k) No institution or representative of an institution shall*
29 *direct a representative to perform any unlawful act, to refrain*
30 *from complaining or reporting unlawful conduct to the bureau or*
31 *another government agency, or to engage in any unfair act to*
32 *persuade a student not to complain to the bureau or another*
33 *government agency.*

34 *9304. In addition to any other action that the bureau may*
35 *take under this chapter, the bureau may suspend or revoke an*
36 *institution’s approval to operate because of the institution’s*
37 *failure to pay assessments when due or failure to pay*
38 *reimbursement for any payments made from the fund within 30*
39 *days of the bureau’s demand for payment.*

1 9305. (a) Any institution that willfully violates Section 9304
2 shall be subject to all of the following:

3 (1) The institution shall lose all rights to enforce the terms of
4 any contract or agreement arising from the transaction in which
5 the violation occurred.

6 (2) The institution shall refund to the student any fees that it
7 has collected from that student.

8 (b) An institution's willful violation of Section ____ (#5
9 previous) may be grounds for the revocation of that institution's
10 approval to operate in this state.

11 9306. (a) The institution shall not merge classes unless all of
12 the students have received the same amount of instruction and
13 training. This subdivision does not prevent the placement of
14 students, who are enrolled in different programs of instruction, in
15 the same class if that class is part of each of the courses and the
16 placement in a merged class will not impair the students'
17 learning of the subject matter of the class.

18 (b) After a student has enrolled in a program of instruction,
19 the institution shall not do any of the following:

20 (1) Make any unscheduled suspension of any class unless
21 caused by circumstances completely beyond the institution's
22 control.

23 (2) Change the day or time in which any class is offered to a
24 day when the student is not scheduled to attend the institution or
25 to a time that is outside of the range of time that the student is
26 scheduled to attend the institution on the day for which the
27 change is proposed unless at least 90 percent of the students who
28 are enrolled consent to the change and the institution offers full
29 refunds to the students who do not consent to the change. For the
30 purpose of this paragraph, "range of time" means the period
31 beginning with the time at which the student's first scheduled
32 class session for the day is set to start and ending with the time
33 the student's last scheduled class session for that day is set to
34 finish.

35 (c) If an institution enrolls a student in a program of
36 instruction that is not offered or designed as a home study or
37 correspondence course at the time of enrollment, the institution
38 shall not convert the program of instruction from classroom
39 instruction to a home study or correspondence course.

1 (d) An institution shall not move the class instruction to a
2 location more than five miles from the location of instruction at
3 the time of enrollment unless any of the following occur:

4 (1) The institution discloses orally and clearly and
5 conspicuously in writing to each student before enrollment in the
6 program that the location of instruction will change after the
7 program begins and the address of the proposed location.

8 (2) The institution applies for, and the bureau grants,
9 approval to change the location. The bureau shall grant the
10 application within 30 days if the bureau, after notice to affected
11 students and an opportunity for them to be heard as prescribed
12 by the bureau, concludes that the change in location would not
13 be unfair or unduly burdensome to students. The bureau may
14 grant approval to change the location which shall be subject to
15 reasonable conditions, such as requiring the institution to
16 provide transportation, transportation costs, or refunds to
17 adversely affected students.

18 (3) The institution offers a full refund to students enrolled in
19 the program of instruction who do not voluntarily consent to the
20 change.

21 9307. The bureau may suspend or revoke an institution's
22 approval to operate or order probation or the posting of a bond,
23 as provided in Section 94878, for any of the following reasons:

24 (a) The institution has failed to make timely refunds to, or on
25 behalf of students, as required by Sections 94867, 94869, 94870,
26 and 94877, or has not satisfied, within 30 days of its issuance, a
27 final judgment obtained by a student against the institution.

28 (b) The institution or an owner, person in control, director, or
29 officer of the institution is, or has been, found in any criminal,
30 civil, or administrative proceeding, after notice and an
31 opportunity to be heard, to have violated any law regarding the
32 obtaining, maintenance, or disbursement of state or federal loan
33 or grant funds, or any other law substantially related to the
34 operation of the institution.

35 (c) The institution, or a person in control of the institution is,
36 or has been, found in any criminal, civil, or administrative
37 proceeding, after notice and an opportunity to be heard, to have
38 unpaid financial liabilities involving the refund or unlawful
39 acquisition, use, or expenditure of state or federal financial aid
40 funds.

1 (d) (1) All of the following are, or have been, found in any
2 criminal, civil, or administrative proceeding:

3 (A) A person in control of the institution was a person in
4 control of another institution within one year before that
5 institution's closure.

6 (B) While the person was acting as a person in control of the
7 other institution, the person knew or, by the exercise of
8 reasonable care, should have known that the institution violated
9 this chapter.

10 (C) That violation was a cause of that institution's closure or
11 of damage to students.

12 (D) That institution did not pay to all students refunds owed as
13 a result of the closure and full compensation for actual damages
14 from that violation.

15 (E) The person in control has not paid to all students of the
16 closed institution refunds owed and full compensation for actual
17 damages resulting from the closure that were not paid by the
18 closed institution. For the purpose of this subdivision, "closure"
19 includes closure of a branch or satellite campus, the termination
20 of either the correspondence or residence portion of a
21 home-study or correspondence course, and the termination of a
22 course of instruction for some or all of the students enrolled in
23 the course before the time these students were originally
24 scheduled to complete it, or before a student who has been
25 continually enrolled in a course of instruction has been permitted
26 to complete all the educational services, and the classes that
27 comprise the course.

28 9308. Any institution that willfully violates any provision of
29 Section _____, _____, _____, or _____, Sections _____ to
30 _____, inclusive, Section _____, _____, or _____ may not
31 enforce any contract or agreement arising from the transaction
32 in which the violation occurred, and any willful violation is a
33 ground for revoking an approval to operate in this state or for
34 denying a renewal application.

35 9309. Complaints received by the bureau pertaining to
36 institutions accredited by the Western Association of Schools and
37 Colleges shall be forwarded to the association. The bureau shall
38 notify complainants that their complaints have been forwarded
39 and that the bureau will not take any other action due to its lack
40 of jurisdiction. Actions by the bureau relating to complaints

1 *against these institutions shall be limited to the transmittal of this*
2 *information to the Western Association of Schools and Colleges*
3 *and notification to complainants. Complaints received by the*
4 *bureau pertaining to institutions or programs accredited by any*
5 *other accrediting body may be referred to those accrediting*
6 *bodies, in addition to whatever other action the bureau may take.*

7 9311. (a) *In addition to or in lieu of any other remedy or*
8 *penalty, the bureau may issue a citation to an institution for*
9 *committing any violation of this chapter or regulation adopted*
10 *under this chapter.*

11 (b) *The citation may contain an order of abatement or the*
12 *assessment of an administrative fine, or both. The administrative*
13 *fine may not exceed five thousand dollars (\$5,000) for each*
14 *violation. The bureau shall base its assessment of the*
15 *administrative fine on the nature and seriousness of the violation,*
16 *the persistence of the violation, the good faith of the institution,*
17 *the history of previous violations, and the purposes of this*
18 *chapter.*

19 (c) *The citation shall be in writing and shall describe the*
20 *nature of the violation and the specific provision of law*
21 *determined to have been violated. The citation shall inform the*
22 *institution of its right to request a hearing in writing within 15*
23 *days of the date that the citation was issued. If a hearing is not*
24 *requested, payment of the administrative fine shall not constitute*
25 *an admission of the violation charged. If a hearing is requested,*
26 *the bureau shall provide a hearing as described in Section*
27 *94965, 94975, or 94980. Payment of the administrative fine is*
28 *due 15 days after the citation was issued if a hearing is not*
29 *requested, or when a final order is entered if a hearing is*
30 *requested. The bureau may enforce the administrative fine as if it*
31 *were a money judgment pursuant to Title 9 (commencing with*
32 *Section 680.10) of Part 2 of the Code of Civil Procedure.*

33 (d) *All administrative fines shall be deposited in the Private*
34 *Postsecondary and Vocational Education Administration Fund.*

35 9312. (a) *The procedures set forth in Section 94965 or,*
36 *alternatively, in Section 94975, govern the following types of*
37 *administrative actions:*

38 (1) *Denial of an application for an approval or renewal of an*
39 *approval.*

40 (2) *Suspension or revocation of an existing approval.*

1 (3) *Appeals of conditional approvals.*

2 (b) *In lieu of the procedures set forth in Section 94965 or*
3 *94975, an institution may voluntarily elect to utilize the*
4 *procedures set forth in Section 94980 if it appeals a conditional*
5 *approval by the bureau.*

6 (c) *The procedures set forth in Section 94970 govern*
7 *emergency suspensions of an institution's approval to operate*
8 *initiated by the bureau.*

9 (d) *Sections 94952 and 94955 authorize the bureau and the*
10 *Attorney General to seek various forms of judicial relief in order*
11 *to enforce this chapter.*

12 (e) *Section 94960 governs actions based on student*
13 *complaints.*

14 (f) *Section 94985 authorizes civil remedies for individual*
15 *students in addition to those available under other provisions of*
16 *law.*

17 (g) *Procedures established pursuant to regulations adopted by*
18 *the bureau shall govern the following types of administrative*
19 *appeals:*

20 (1) *Probationary actions.*

21 (2) *Decisions by the bureau denying an institution's claim for*
22 *an exemption or exclusion from this chapter or any provision*
23 *thereof.*

24 9313. (a) *If the bureau determines after an investigation that*
25 *an institution has violated this chapter or any of the regulations*
26 *adopted by the bureau, the bureau may place the institution on*
27 *probation.*

28 (b) *If at any time the bureau determines that an institution has*
29 *deviated from the standards for approval, the bureau, after*
30 *identifying for the institution the areas in which it has deviated*
31 *from the standards, and after giving the institution due notice*
32 *and an opportunity to be heard, may place the institution on*
33 *probation for a prescribed period of time, not to exceed 24*
34 *calendar months. During the period of probation, the institution*
35 *shall be subject to special monitoring. The conditions for*
36 *probation may include the required submission of periodic*
37 *reports, as prescribed by the bureau, and special visits by*
38 *authorized representatives of the bureau to determine progress*
39 *toward total compliance. If, at the end of the probationary*
40 *period, the institution has not taken steps to eliminate the cause*

1 *or causes for its probation to the satisfaction of the bureau, the*
2 *bureau may revoke the institution's approval to award degrees*
3 *and provide notice to the institution to cease its operations.*

4 *(c) If at any time the bureau determines that an institution has*
5 *deviated from the standards for approval, the bureau, after*
6 *giving the institution due notice and an opportunity to be heard,*
7 *may place the institution on probation for a specified period of*
8 *time not to exceed 24 calendar months. During the period of*
9 *probation, the institution shall be subject to special monitoring.*
10 *The conditions for probation may include the required*
11 *submission of periodic reports, as prescribed by the bureau, and*
12 *special visits by authorized representatives of the bureau to*
13 *determine progress toward total compliance. If at the end of the*
14 *specified probationary period, the institution has not taken steps*
15 *to eliminate the causes for its probation to the satisfaction of the*
16 *bureau, the bureau may revoke the institution's approval and*
17 *provide notice to the institution to cease its operations.*

18 *9314. (a) If the bureau determines after notice and if*
19 *requested by the institution, a hearing, that an institution has*
20 *violated this article, Section 94831, 94832, or 94985, or former*
21 *Section 94320 as that section was in effect on January 1, 1991,*
22 *but that the institution's approval to operate, or approval to*
23 *operate a branch or satellite campus should not be suspended or*
24 *revoked, or that the institution should not be ordered to cease*
25 *offering a class or program of instruction, the bureau may do*
26 *any or all of the following:*

27 *(1) Place the institution, or branch or satellite campus, on*
28 *probation under reasonable terms and conditions for a specified*
29 *period of time not to exceed two years.*

30 *(2) Order the institution to post a bond.*

31 *(3) Order the institution not to enter into new agreements for*
32 *courses of instruction.*

33 *(b) During the period of probation, the institution, or the*
34 *branch or satellite or both the institution and the branch or*
35 *satellite campus, shall be subject to monitoring that may include*
36 *the required submission of periodic reports, as prescribed by the*
37 *bureau and special onsite inspections to determine progress*
38 *toward compliance. The onsite inspections may include an*
39 *inspection of the institution's facilities and records, interviews of*
40 *administrators, faculty, and students, and observation of class*

1 *instruction. The bureau shall order the institution to reimburse*
2 *all reasonable costs and expenses incurred by the bureau in*
3 *connection with this subdivision. The bureau may make the*
4 *payment of the order for reimbursement a condition of probation.*

5 *(c) If, at the period of probation, the bureau is not satisfied*
6 *with the steps taken by the institution to eliminate the violations*
7 *of this article, Sections 94831, 94832, and 94985, or former*
8 *Section 94320 as that section was in effect on January 1, 1991,*
9 *upon which the probation was based, the bureau may revoke the*
10 *institution's approval to operate or the institution's approval to*
11 *operate a branch or satellite campus.*

12 *(d) The bureau may assess a penalty of up to ten thousand*
13 *dollars (\$10,000) as part of a probation order for violations of*
14 *this article, Sections 94831, 94832, and 94985, or former Section*
15 *94320 as that section was in effect on January 1, 1991. In*
16 *determining the amount of that penalty, the bureau shall consider*
17 *the number and gravity of the violations, the degree of the*
18 *institution's good faith or culpability, the history of the*
19 *institution's previous violations, and the institution's ability to*
20 *pay. If the institution fails to pay a penalty within the time*
21 *prescribed by the bureau the institution's approval to operate the*
22 *institution, or approval to operate a branch or satellite campus,*
23 *shall be automatically suspended until the penalty is paid in full.*

24 *9315. (a) If the bureau determines after an investigation that*
25 *an institution has violated this chapter or any of the regulations*
26 *adopted by the bureau, the bureau may issue an order*
27 *prohibiting the enrollment of new students.*

28 *(b) If the bureau determines after notice and if requested by*
29 *the institution, a hearing, that an institution has violated this*
30 *article, Section 94831, 94832, or 94985, or former Section 94320*
31 *as that section was in effect on January 1, 1991, but that the*
32 *institution's approval to operate, or approval to operate a*
33 *branch or satellite campus should not be suspended or revoked,*
34 *or that the institution should not be ordered to cease offering a*
35 *class or program of instruction, the bureau may do any or all of*
36 *the following:*

37 *(1) Place the institution, or branch or satellite campus, on*
38 *probation under reasonable terms and conditions for a specified*
39 *period of time not to exceed two years.*

40 *(2) Order the institution to post a bond.*

1 (3) *Order the institution not to enter into new agreements for*
2 *courses of instruction.*

3 9316. (a) *For the purposes of administration and*
4 *enforcement of this chapter, the Department of Consumer*
5 *Affairs, the bureau, and the director and officers and employees*
6 *of the department and the bureau, shall have all the powers and*
7 *authority granted under this chapter and under Division 1*
8 *(commencing with Section 100) and Division 1.5 (commencing*
9 *with Section 475) of the Business and Professions Code. In*
10 *addition to satisfying the approval, compliance, and enforcement*
11 *provisions of this chapter, the bureau shall also comply with and*
12 *exercise all authority granted by Division 1 (commencing with*
13 *Section 100) and Division 1.5 (commencing with Section 475).*

14 (b) *The bureau shall establish a regular inspection program*
15 *which shall include unannounced inspections.*

16 (c) *If the bureau determines after an investigation that an*
17 *institution has violated this chapter or any of the regulations*
18 *adopted by the bureau, the bureau may do any or all of the*
19 *following:*

20 (1) *Place the institution on probation.*

21 (2) *Issue an order prohibiting the enrollment of new students.*

22 (3) *Issue an administrative citation and impose an*
23 *administrative fine as authorized by, and in accordance with,*
24 *Section 94957 of the Education Code or Section 146, 147, or*
25 *148.*

26 (4) *Issue an order of abatement or citation pursuant to Section*
27 *125.9 or 148.*

28 (5) *Initiate proceedings under the Administrative Procedure*
29 *Act or this chapter to revoke or suspend the institution's*
30 *approval to operate.*

31 (6) *With the consent of the institution, refer an adjudicative*
32 *proceeding to mediation, or binding or nonbinding arbitration,*
33 *in accordance with the regulations of the Office of Administrative*
34 *Hearings, the department, or the bureau.*

35 (7) *Order reimbursement of the costs of the investigation and*
36 *enforcement in accordance with Section 94935 of this code or*
37 *Section 125.3. An institution shall not be required to pay the*
38 *same costs and expenses to more than one investigating entity.*

39 (8) *Notify the telephone company to disconnect the*
40 *institution's telephone as authorized by Section 149.*

1 (d) (1) The bureau, after notice and, if requested by the
2 institution, a hearing as provided in _____, may suspend or
3 revoke an institution's approval to operate or approval to
4 operate a branch or satellite campus or may order that an
5 institution cease offering a class or course of instruction because
6 of any violation of this article, or any regulation or order issued
7 pursuant to this article.

8 (2) If the bureau takes any of the actions described in
9 paragraph (1), the bureau may permit the institution to continue
10 to offer the class or course of instruction to students already
11 enrolled or may order the institution to cease instruction and
12 provide a refund of tuition and all other charges to students.

13 9317. (a) The Attorney General, or any district attorney, or
14 city attorney, may make investigations as may be necessary to
15 carry out this chapter, including, but not necessarily limited to,
16 investigations of complaints. The bureau may jointly bring
17 actions as necessary to enforce this chapter, including, but not
18 necessarily limited to, civil actions for injunctive relief. In
19 actions brought pursuant to this subdivision, the bureau shall be
20 represented by the Attorney General.

21 (b) The Attorney General shall represent the bureau in the
22 following administrative proceedings arising under this chapter:

23 (1) Suspension or revocation of an institution's approval.

24 (2) Denial of an institution's application for approval.

25 (3) An appeal of a conditional approval to operate issued
26 following a review of an institution's application for approval.

27 (c) Nothing in this section or this chapter shall preclude the
28 Attorney General, or any district attorney or city attorney, from
29 any of the following:

30 (1) Bringing any action on behalf of the people as he or she is
31 empowered by law to bring, including, but not necessarily limited
32 to, actions based upon alleged violations of Chapter 5
33 (commencing with Section 17200) of Part 2, and Chapter 1
34 (commencing with Section 17500) of Part 3 of Division 7 of the
35 Business and Professions Code.

36 (2) Conducting investigations necessary to determine whether
37 there have been violations of law specified in paragraph (1).

38 (3) Conducting any investigations that he or she is authorized
39 to conduct, including, but not necessarily limited to,

1 *investigations authorized under Section 11180 of the Government*
2 *Code.*

3 *(4) In the case of the Attorney General, delegating his or her*
4 *representation authority under subdivision (b) to staff attorneys*
5 *of the bureau.*

6 *(5) Entering into an agreement or understanding with the*
7 *bureau with respect to representation in any judicial or*
8 *administrative proceeding not expressly enumerated herein.*

9 *9318. (a) If an institution has violated this chapter and*
10 *determines that immediate action is necessary to protect*
11 *students, prevent misrepresentations to the public, or prevent the*
12 *loss of public funds, tuition, or other money paid by students, the*
13 *bureau may institute an emergency action to suspend the*
14 *approval of an institution to operate, or the approval to operate*
15 *a branch or satellite campus, for not more than 30 days unless*
16 *the bureau initiates a proceeding to suspend or revoke the*
17 *approval to operate within that period.*

18 *(b) (1) The bureau shall provide notice of the emergency*
19 *action to the institution by certified mail, if the effective date of*
20 *the emergency action is 10 or more working days after mailing,*
21 *or personal service, if the effective date of the emergency action*
22 *is five or more days after service.*

23 *(2) The notice shall specify all of the following:*

24 *(A) The violations upon which the emergency action is based.*

25 *(B) The nature and grounds of the emergency action,*
26 *including whether the action applies to the continuation of*
27 *instruction to enrolled students or to the enrollment of new*
28 *students.*

29 *(C) The effective date of the action, which shall not be less*
30 *than five days after the notice is provided.*

31 *(D) The institution's right to show cause that the emergency*
32 *action is unwarranted by submitting to the bureau, at least two*
33 *days before the effective date of the emergency action,*
34 *declarations, documentary evidence, and written arguments*
35 *demonstrating that the violations did not occur or that immediate*
36 *action is not required.*

37 *(E) The right of the institution to request, in writing, within 30*
38 *days of the service of the notice, a hearing.*

39 *(c) The bureau may (1) continue the effective date of an*
40 *emergency action or (2) terminate the emergency action at any*

1 time if the bureau concludes that the institution has shown cause
2 that the emergency action is unwarranted or that the grounds for
3 instituting the emergency action no longer remain. The bureau
4 shall provide written notice of a continuance or termination of an
5 emergency action to the institution.

6 (d) (1) If the institution does not take the opportunity to show
7 cause why the emergency action is unwarranted, the emergency
8 action shall become effective on the date specified in the notice
9 or notice of continuance.

10 (2) If the institution takes the opportunity to show cause and
11 the bureau decides, after a consideration of the declarations,
12 documentary evidence and written argument submitted by the
13 institution, that the emergency action should become effective,
14 the emergency action shall be effective on the date specified in
15 the notice or notice of continuance. The bureau shall notify the
16 institution of the decision at least one day before the effective
17 date, and the institution may thereafter seek judicial relief upon
18 notice to the bureau and the Attorney General.

19 (e) (1) If a hearing is requested within the 30-day period
20 specified in subdivision (b) the bureau shall set a date for the
21 hearing within 20 days after receipt of the request.

22 (2) If the institution does not request a hearing within the
23 30-day period specified in subdivision (b) or if the bureau
24 concludes after a hearing requested by the institution that
25 grounds exist for the suspension or revocation of the institution's
26 approval to operate or approval to operate a branch or satellite
27 campus, the bureau may extend the suspension or revoke the
28 institution's approval to operate or approval to operate a branch
29 or satellite campus, order probation and a penalty, order the
30 posting of a bond, or condition the institution's approval to
31 operate or approval to operate a branch or satellite campus as
32 the bureau deems appropriate.

33 (f) During the pendency of an emergency action, the bureau
34 may investigate the institution's compliance with this chapter,
35 including an onsite inspection, and may institute a proceeding
36 pursuant to Section 94878, if applicable, or Section 94965 or
37 94975 to suspend or revoke an institution's approval to operate
38 or approval to operate a branch or satellite campus, order a
39 bond, or order probation and a penalty, based on any violation
40 of this chapter.

1 (g) *This section supplements, but does not supplant, the*
2 *authority of the bureau to seek judicial relief, including a*
3 *temporary restraining order and injunction, to redress any*
4 *violation of this chapter.*

5 9319. (a) *If the bureau determines after notice and if*
6 *requested by the institution, a hearing, that an institution has*
7 *violated this article, Section 94831, 94832, or 94985, or former*
8 *Section 94320 as that section was in effect on January 1, 1991,*
9 *but that the institution's approval to operate, or approval to*
10 *operate a branch or satellite campus should not be suspended or*
11 *revoked, or that the institution should not be ordered to cease*
12 *offering a class or program of instruction, the bureau may do*
13 *any or all of the following:*

14 (1) *Place the institution, or branch or satellite campus, on*
15 *probation under reasonable terms and conditions for a specified*
16 *period of time not to exceed two years.*

17 (2) *Order the institution to post a bond.*

18 (3) *Order the institution not to enter into new agreements for*
19 *courses of instruction.*

20 (b) *During the period of probation, the institution, or the*
21 *branch or satellite or both the institution and the branch or*
22 *satellite campus, shall be subject to monitoring that may include*
23 *the required submission of periodic reports, as prescribed by the*
24 *bureau and special onsite inspections to determine progress*
25 *toward compliance. The onsite inspections may include an*
26 *inspection of the institution's facilities and records, interviews of*
27 *administrators, faculty, and students, and observation of class*
28 *instruction. The bureau shall order the institution to reimburse*
29 *all reasonable costs and expenses incurred by the bureau in*
30 *connection with this subdivision. The bureau may make the*
31 *payment of the order for reimbursement a condition of probation.*

32 (c) (1) *Any bond ordered by the bureau shall be issued by an*
33 *admitted surety insurer in an amount established at the*
34 *discretion of the bureau that is sufficient to protect students from*
35 *the potential consequences of the violation.*

36 (2) *The bond shall be in favor of the State of California for the*
37 *indemnification of any person for any loss, including the loss of*
38 *prepaid tuition, suffered as a result of the occurrence of any*
39 *violation of this chapter during the period of coverage.*

1 (3) *Liability on the bond may be enforced after a hearing*
2 *before the bureau, after 30 days' advance written notice to the*
3 *principal and surety. The bureau shall adopt regulations*
4 *establishing the procedure for administrative enforcement of*
5 *liability. This paragraph supplements, but does not supplant, any*
6 *other rights or remedies to enforce liability on the bond.*

7 (4) *The bureau may order the institution to file reports at any*
8 *interval the bureau deems necessary to enable the bureau to*
9 *monitor the adequacy of the bond coverage and to determine*
10 *whether further action is appropriate.*

11 9320. (a) *The bureau may bring an action for equitable relief*
12 *for any violation of this article in addition to, or instead of, any*
13 *other remedy or procedure.*

14 (b) *The suspension or revocation of an institution's approval*
15 *to operate also may be embraced in any action otherwise proper*
16 *in any court involving the institution's compliance with this*
17 *chapter or performance of its legal obligations.*

18 9321. (a) *The bureau may bring an action for equitable relief*
19 *for any violation of this chapter. The equitable relief may include*
20 *restitution, a temporary restraining order, the appointment of a*
21 *receiver, and a preliminary or permanent injunction. The action*
22 *may be brought in the county in which the defendant resides or in*
23 *which any violation has occurred or may occur.*

24 (b) *The remedies provided in this section supplement, and do*
25 *not supplant, the remedies and penalties under other provisions*
26 *of law.*

27 (c) *In actions brought pursuant to this section, the bureau*
28 *shall be represented by the Attorney General.*

29 9322. *A person entitled to bring an action for the recovery of*
30 *damages or other relief shall not be required to file a complaint*
31 *pursuant to this section, or to pursue or exhaust any*
32 *administrative process or remedy before bringing the action.*

33 9323. (a) *If an institution violates this article or Section*
34 *94832 or commits an act as set forth in Section 94830 in*
35 *connection with an agreement for a course of instruction, that*
36 *agreement shall be unenforceable, and the institution shall*
37 *refund all consideration paid by or on behalf of the student.*

38 (b) *Notwithstanding any provision in an agreement, a student*
39 *may bring an action for a violation of this article or Section*
40 *94832 or an institution's failure to perform its legal obligations*

1 *and, upon prevailing, shall be entitled to the recovery of*
2 *damages, equitable relief, any other relief authorized by this*
3 *article, and reasonable attorney's fees and costs.*

4 *(c) If a court finds that a violation was willfully committed or*
5 *that the institution failed to refund all consideration as required*
6 *by subdivision (a) on the student's written demand, the court, in*
7 *addition to the relief awarded under subdivision (b), shall award*
8 *a civil penalty of up to two times the amount of the damages*
9 *sustained by the student.*

10 *(d) The remedies provided in this article supplement, but do*
11 *not supplant, the remedies provided under other provisions of*
12 *law.*

13 *(e) An action brought under this section shall be commenced*
14 *within three years of the discovery of the facts constituting*
15 *grounds for commencing the action.*

16 *(f) A student may assign his or her causes of action for a*
17 *violation of this article to the bureau, or to any state or federal*
18 *agency that guaranteed or reinsured a loan for the student or*
19 *provided any grant or other financial aid.*

20 *(g) If a student commences an action or asserts any claim in*
21 *an existing action for recovery on behalf of a class of persons, or*
22 *on behalf of the general public, under Section 17200 of the*
23 *Business and Professions Code, the student shall notify the*
24 *bureau of the existence of the lawsuit, the court in which the*
25 *action is pending, the case number of the action, and the date of*
26 *the filing of the action or of the assertion of the claim. The*
27 *student shall notify the bureau as required by this subdivision*
28 *within 30 days of the filing of the action or of the first assertion*
29 *of the claim, whichever is later. The student shall also notify the*
30 *court that he or she has notified the bureau pursuant to this*
31 *subdivision. Notwithstanding any other provision of law, no*
32 *judgment may be entered pursuant to this section until the*
33 *student has notified the bureau of the suit and notified the court*
34 *that the bureau has been notified. This subdivision only applies*
35 *to a new action filed or to a new claim asserted on or after*
36 *January 1, 2002.*

37 *9324. (a) Any person or business entity, regardless of the*
38 *form of organization that willfully violates Section 94800,*
39 *Sections 94810 to 94826, inclusive, or Section 94828, 94829,*
40 *94831, or 94832 is guilty of a crime and shall be subject to*

1 *separate punishment for each violation either by imprisonment in*
2 *a county jail not to exceed one year, by a fine not to exceed ten*
3 *thousand dollars (\$10,000), or by both that imprisonment and*
4 *fine; or by imprisonment in the state prison, by a fine not to*
5 *exceed fifty thousand dollars (\$50,000), or by both that*
6 *imprisonment and fine.*

7 *(b) Notwithstanding any other law, any prosecution under this*
8 *section shall be commenced within three years of the discovery of*
9 *the facts constituting grounds for commencing the prosecution.*

10 *(c) The penalties provided by this section supplement, but do*
11 *not supplant, the remedies and penalties provided under other*
12 *law.*

13 *(d) In addition to any other fines or penalties imposed*
14 *pursuant to this section, any person or business entity found*
15 *guilty of a crime as described in subdivision (a) shall be ordered*
16 *to pay the Attorney General, any district attorney, or any city*
17 *attorney all of their costs and expenses in connection with any*
18 *investigation incident to that prosecution. An institution shall not*
19 *be required to pay the same costs and expenses to more than one*
20 *investigating agency.*

21 *9325. (a) For the purposes of this section, the following*
22 *definitions apply:*

23 *(1) "Document or record" means any test score, grade,*
24 *record of grades, attendance record, record indicating student*
25 *course completion or employment, financial information,*
26 *including any financial report required to be filed pursuant to*
27 *Sections 94861 and 94862, information or records relating to the*
28 *student's eligibility for financial assistance or attendance at the*
29 *institution, or any other record or document required by this*
30 *chapter or by the bureau.*

31 *(2) "Person" means a natural person and any business entity,*
32 *regardless of the form of organization.*

33 *(b) Any person who, in any manner, makes or causes to be*
34 *made any untrue or misleading statement in connection with*
35 *offering or providing a course of instruction, or who makes or*
36 *causes to be made any untrue or misleading change in any*
37 *document or record and who knows or, by the exercise of*
38 *reasonable care, should know that the statement or change is*
39 *untrue or misleading is guilty of a crime, punishable as provided*
40 *in subdivision (e).*

1 (c) Any person who willfully falsifies, destroys, fails to
2 maintain, or conceals any document or record that is required to
3 be maintained by this chapter or by the bureau is guilty of a
4 crime, punishable as provided in subdivision (e).

5 (d) Any person who is required to file any report required by
6 paragraph (3) of subdivision (f) of Section 94854, or Section
7 94861 or 94862 and who willfully fails to file that report as
8 required, or willfully violates or causes the violation of
9 subdivision (b) of Section 94874, is guilty of a crime and is
10 subject to punishment for each violation as provided in
11 paragraph (2) of subdivision (e).

12 (e) Any person who violates subdivision (b) or (c), or who
13 willfully violates Section 94831, 94832, 94853, or 94985, or
14 former Section 94320 as that section was in effect January 1,
15 1991, is guilty of a crime and is subject to separate punishment
16 for each violation either by:

17 (1) Imprisonment in the state prison, by a fine not to exceed
18 fifty thousand dollars (\$50,000), or by both that imprisonment
19 and fine.

20 (2) Imprisonment in a county jail not to exceed one year, by a
21 fine not to exceed ten thousand dollars (\$10,000), or by both that
22 imprisonment and fine.

23 (f) Notwithstanding any other law, any prosecution under this
24 section shall be commenced within three years of the discovery of
25 the facts constituting grounds for commencing the prosecution.

26 (g) The penalties provided by this section supplement, but do
27 not supplant, the remedies and penalties provided under other
28 law.

29 9326. Any person who claims that an institution is operating
30 in violation of subdivision (a) of Section 94831, subdivision (a) of
31 Section 94900, or Section 94915, or an institution is operating a
32 branch or satellite campus in violation of subdivision (a) of
33 Section 94857, may bring an action, in a court of competent
34 jurisdiction, for the recovery of actual and or statutory damages
35 as well as an equity proceeding to restrain and enjoin those
36 violations.

37 9327. If a court finds that a violation was willfully committed
38 or that the institution failed to refund all consideration as
39 required by subdivision (b) on the student's written demand, the
40 court, in addition to the relief authorized under subdivision (b),

1 *shall award a civil penalty of up to two times the amount of the*
2 *damages sustained by the student.*

3 9328. (a) *If an institution violates this article or Section*
4 *94832 or commits an act as set forth in Section 94830 in*
5 *connection with an agreement for a course of instruction, that*
6 *agreement shall be unenforceable, and the institution shall*
7 *refund all consideration paid by or on behalf of the student.*

8 (b) *Notwithstanding any provision in an agreement, a student*
9 *may bring an action for a violation of this article or Section*
10 *94832 or an institution's failure to perform its legal obligations*
11 *and, upon prevailing, shall be entitled to the recovery of*
12 *damages, equitable relief, any other relief authorized by this*
13 *article, and reasonable attorney's fees and costs.*

14 (c) *If a court finds that a violation was willfully committed or*
15 *that the institution failed to refund all consideration as required*
16 *by subdivision (a) on the student's written demand, the court, in*
17 *addition to the relief awarded under subdivision (b), shall award*
18 *a civil penalty of up to two times the amount of the damages*
19 *sustained by the student.*

20 (d) *The remedies provided in this article supplement, but do*
21 *not supplant, the remedies provided under other provisions of*
22 *law.*

23 (e) *An action brought under this section shall be commenced*
24 *within three years of the discovery of the facts constituting*
25 *grounds for commencing the action.*

26 (f) *Any provision in any agreement that purports to require a*
27 *student to invoke any grievance dispute procedure established by*
28 *the institution or any other procedure before bringing an action*
29 *to enforce any right or remedy is void and unenforceable.*

30 (g) *A student may assign his or her causes of action for a*
31 *violation of this article to the bureau, or to any state or federal*
32 *agency that guaranteed or reinsured a loan for the student or*
33 *provided any grant or other financial aid.*

34 (h) *This section applies to any action pending under former*
35 *Chapter 7 (commencing with Section 94700) on January 1, 1990.*

36 (i) *If a student commences an action or asserts any claim in an*
37 *existing action for recovery on behalf of a class of persons, or on*
38 *behalf of the general public, under Section 17200 of the Business*
39 *and Professions Code, the student shall notify the bureau of the*
40 *existence of the lawsuit, the court in which the action is pending,*

1 *the case number of the action, and the date of the filing of the*
 2 *action or of the assertion of the claim. The student shall notify*
 3 *the bureau as required by this subdivision within 30 days of the*
 4 *filing of the action or of the first assertion of the claim,*
 5 *whichever is later. The student shall also notify the court that he*
 6 *or she has notified the bureau pursuant to this subdivision.*
 7 *Notwithstanding any other provision of law, no judgment may be*
 8 *entered pursuant to this section until the student has notified the*
 9 *bureau of the suit and notified the court that the bureau has been*
 10 *notified. This subdivision only applies to a new action filed or to*
 11 *a new claim asserted on or after January 1, 2002.*

12
 13 *Article 13.5. Hearings*
 14

15 9335. (a) *Proceedings in connection with the denial of an*
 16 *application to operate, the grant of a conditional approval to*
 17 *operate, or the revocation of an approval to operate shall be*
 18 *conducted in accordance with Chapter 5 (commencing with*
 19 *Section 11500) of Part 1 of Division 3 of Title 2 of the*
 20 *Government Code, and the bureau shall have all of the powers*
 21 *granted in that chapter. Any action by the bureau to place an*
 22 *institution on probation shall be subject to appeal, and the*
 23 *bureau shall establish procedures that provide the institution*
 24 *with adequate notice and an opportunity to be heard and to*
 25 *present evidence as to why the action recommended by staff or by*
 26 *a visiting committee shall not be taken.*

27 (b) *Upon taking any action to suspend or revoke an*
 28 *institution's approval to operate, or to deny an application for*
 29 *renewal of an approval to operate, the bureau shall provide*
 30 *written notice to the Student Aid Commission, the United States*
 31 *Department of Education, and to any appropriate accrediting*
 32 *association.*

33 9336. (a) *This section establishes the procedure for notice*
 34 *and hearing required under this chapter and, except as provided*
 35 *in Section 94970, may be used in lieu of other notice or hearing*
 36 *requirements provided in this chapter.*

37 (b) *If notice of administrative action is required by this*
 38 *chapter, the bureau shall serve notice stating the following:*

39 (1) *The action, including the penalties and administrative*
 40 *sanctions sought.*

1 (2) *The grounds for the action with sufficient particularity to*
2 *give notice of the transactions, occurrences, violations, or other*
3 *matters on which the action is based.*

4 (3) *The right to a hearing and the time period within which the*
5 *party subject to the notice may request a hearing in writing. The*
6 *time period shall not be less than 15 days after service of the*
7 *notice unless a longer period is provided by statute.*

8 (4) *The right to be present at the hearing, to be represented by*
9 *counsel, to cross-examine witnesses, and to present evidence.*

10 (5) *That, if the party subject to the notice does not request a*
11 *hearing in writing within the time period expressed in the notice,*
12 *he or she will waive or forfeit his or her right to an*
13 *administrative hearing and the action will become final.*

14 (c) *If a party subject to a notice provided pursuant to*
15 *subdivision (b) requests a hearing in writing within the time*
16 *period specified in subparagraph*

17 *(3) of paragraph (b), then within 30 days of receiving this*
18 *request, the bureau shall schedule a hearing. The hearing shall*
19 *be held in a location determined pursuant to Section 11508 of the*
20 *Government Code. The bureau shall serve reasonable notice of*
21 *the time and place for the hearing at least 10 days before the*
22 *hearing. The bureau may continue the date of the hearing upon a*
23 *showing of good cause.*

24 (d) (1) *Any party, including the bureau, may submit a written*
25 *request to any other party before the hearing to obtain the names*
26 *and addresses of any person who has personal knowledge, or*
27 *who the party receiving the request claims to have personal*
28 *knowledge, of any of the transactions, occurrences, violations, or*
29 *other matters that are the basis of the administrative action. In*
30 *addition, the requesting party shall have the right to inspect and*
31 *copy any written statement made by that person and any writing,*
32 *as defined by Section 250 of the Evidence Code, or thing that is*
33 *in the custody, or under the control, of the party receiving the*
34 *request and that is relevant and not privileged. This subdivision*
35 *shall constitute the exclusive method for prehearing discovery.*
36 *However, nothing in this paragraph shall affect the bureau's*
37 *authority, at any time, to investigate, inspect, monitor, or obtain*
38 *and copy information under any provision of this chapter.*

39 (2) *The written request described in paragraph (1) shall be*
40 *made before the hearing and within 30 days of the service of the*

1 notice described in subdivision (b). Each recipient of a request
2 shall comply with the request within 15 days of its service by
3 providing the names and addresses requested and by producing
4 at a reasonable time at the bureau's office, or other mutually
5 agreed reasonable place, the requested writings and things. The
6 bureau may extend the time for response upon a showing of good
7 cause.

8 (3) Except as provided in this paragraph, no party may
9 introduce the testimony or statement of any person or any writing
10 or thing into evidence at the hearing if that party failed to
11 provide the name and address of the person or to produce the
12 writing or thing for inspection and copying as provided by this
13 subdivision. A party may introduce the testimony, statement,
14 writing, or thing that was not identified or produced as required
15 herein only if there is no objection or if the party establishes that
16 the person, writing, or thing was unknown at the time when the
17 response was made to the written request, the party could not
18 have informed other parties within a reasonable time after
19 learning of the existence of the person, writing, or thing, and no
20 party would be prejudiced by the introduction of the evidence.

21 (e) Before the hearing has commenced, the bureau shall issue
22 subpoenas at the written request of any party for the attendance
23 of witnesses or the production of documents or other things in the
24 custody or under the control of the person subject to the
25 subpoena. Subpoenas issued pursuant to this section are subject
26 to Section 11510 of the Government Code.

27 (f) (1) The bureau shall designate an impartial hearing officer
28 to conduct the hearing. The hearing officer may administer oaths
29 and affirmations, regulate the course of the hearing, question
30 witnesses, and otherwise investigate the issues, take official
31 notice according to the procedure provided in Division 4
32 (commencing with Section 450) of the Evidence Code of any
33 technical or educational matter in the bureau's special field of
34 expertise and of any matter that may be judicially noticed, set the
35 time and place for continued hearings, fix the time for the filing
36 of briefs and other documents, direct any party to appear and
37 confer to consider the simplification of issues by consent, and
38 prepare a statement of decision.

39 (2) Neither a hearing officer nor any person who has a direct
40 or indirect interest in the outcome of the hearing shall

1 *communicate directly or indirectly with each other regarding any*
2 *issue involved in the hearing while the proceeding is pending*
3 *without notice and opportunity for all parties to participate in the*
4 *communication. A hearing officer who receives any ex parte*
5 *communication shall immediately disclose the communication to*
6 *the bureau and all other parties. The bureau may disqualify the*
7 *hearing officer if necessary to eliminate the effect of the ex parte*
8 *communication. If the bureau finds that any party willfully*
9 *violated, or caused the violation of, this paragraph, the bureau*
10 *shall enter that party's default and impose the administrative*
11 *sanction set forth in the notice provided pursuant to subdivision*
12 *(b).*

13 *(g) (1) Each party at the hearing shall be afforded an*
14 *opportunity to present evidence, respond to evidence presented*
15 *by other parties, cross-examine, and present written argument*
16 *or, if permitted by the hearing officer, oral argument on the*
17 *issues involved in the hearing. The bureau may call any party as*
18 *a witness who may be examined as if under cross-examination.*

19 *(2) Each party may appear through its representative or*
20 *through legal counsel.*

21 *(3) The technical rules relating to evidence and witnesses*
22 *shall not apply.*

23 *However, only relevant evidence is admissible.*

24 *(4) Oral evidence shall be taken only upon oath or*
25 *affirmation. The hearing shall be conducted in the English*
26 *language. The proponent of any testimony to be offered by a*
27 *witness who is not proficient in English shall provide, at the*
28 *proponent's cost, an interpreter proficient in English and the*
29 *language in which the witness will testify.*

30 *(5) The hearing shall be recorded by tape recording or other*
31 *phonographic means unless all parties agree to another method*
32 *of recording the proceedings.*

33 *(6) (A) At any time 10 or more days before the hearing, any*
34 *party may serve on the other parties a copy of any declaration*
35 *that the party proposes to introduce in evidence.*

36 *(B) The declaration shall be accompanied by a notice*
37 *indicating the date of service of the notice and stating that the*
38 *declarations will be offered into evidence, the declarants will not*
39 *be called as witnesses, and there will be no right of*
40 *cross-examination unless the party receiving the notice requests*

1 *the right to cross-examine, in writing, within seven days of the*
2 *service of the declarations and notice.*

3 *(C) If no request for cross-examination is served within seven*
4 *days of the service of the declarations and notice described in*
5 *subparagraph (B), the right to cross-examination is deemed*
6 *waived and the declaration shall have the same effect as if the*
7 *declarant testified orally. Notwithstanding this paragraph, a*
8 *declaration may be admitted as hearsay evidence without*
9 *cross-examination.*

10 *(7) Disposition of any issues involved in the hearing may be*
11 *made by stipulation or settlement.*

12 *(8) If a party fails to appear at a hearing, that party's default*
13 *shall be taken and the party shall be deemed to have waived the*
14 *hearing and agreed to the administrative action and the grounds*
15 *for that action described in the notice given pursuant to*
16 *subdivision (b). The bureau shall serve the party with an order of*
17 *default including the administrative action ordered. The order*
18 *shall be effective upon service or at any other time designated by*
19 *the bureau. The bureau may relieve a party from an order of*
20 *default if the party applies for relief within 15 days after the*
21 *service of an order of default and establishes good cause for*
22 *relief. An application for relief from default shall not stay the*
23 *effective date of the order unless expressly provided by the*
24 *bureau.*

25 *(h) (1) At any time before the matter is submitted for decision,*
26 *the bureau may amend the notice provided pursuant to*
27 *subdivision (b) to set forth any further grounds for the originally*
28 *noticed administrative action or any additional administrative*
29 *action and the grounds therefor. The statement of the further*
30 *grounds for the originally noticed administrative action, or of the*
31 *grounds for any additional administrative action, shall be made*
32 *with sufficient particularity to give notice of the transactions,*
33 *occurrences, violations, or other matters on which the action or*
34 *additional action is based. The amended notice shall be served*
35 *on all parties. All parties affected by the amended notice shall be*
36 *given reasonable opportunity to respond to the amended notice*
37 *as provided in this section.*

38 *(2) The bureau may amend the notice after the case is*
39 *submitted for decision. The bureau shall serve each party with*
40 *notice of the intended amendment, and shall provide the party*

1 *with an opportunity to show that the party will be prejudiced by*
2 *the amendment unless the case is reopened to permit the party to*
3 *introduce additional evidence. If prejudice is shown, the bureau*
4 *shall reopen the case to permit the introduction of additional*
5 *evidence.*

6 *(i) (1) Within 30 days after the conclusion of the hearing or at*
7 *another time established by the bureau, the hearing officer shall*
8 *submit a written statement of decision setting forth a*
9 *recommendation for a final decision and explaining the factual*
10 *and legal basis for the decision as to each of the grounds for the*
11 *administrative action set forth in the notice or amended notice.*
12 *The bureau shall serve the hearing officer's statement of decision*
13 *on each party and its counsel within 10 days of its submission by*
14 *the hearing officer.*

15 *(2) The director shall make the final decision which shall be*
16 *based exclusively on evidence introduced at the hearing. The*
17 *final decision shall be supported by substantial evidence in the*
18 *record. The director also shall issue a statement of decision*
19 *explaining the factual and legal basis for the final decision as to*
20 *each of the grounds for the administrative action set forth in the*
21 *notice or amended notice. The director shall issue an order*
22 *based on its decision which shall be effective upon service or at*
23 *any other time designated by the director. The director, or his or*
24 *her agent, shall serve a copy of the final decision and order,*
25 *within 10 days of their issuance, on each party and its counsel.*

26 *(3) The bureau shall serve a certified copy of the complete*
27 *record of the hearing, or any part thereof designated by a party,*
28 *within 30 days after receiving the party's written request and*
29 *payment of the cost of preparing the requested portions of the*
30 *record. The complete record shall include all notices and orders*
31 *issued by the bureau, a transcript of the hearing, the exhibits*
32 *admitted or rejected, the written evidence and any other papers*
33 *in the case, the hearing officer's statement of decision, and the*
34 *final decision and order.*

35 *(j) The bureau shall serve all notices and other documents that*
36 *are required to be served by this section on each party by*
37 *personal delivery, by certified mail, return receipt requested, or*
38 *by any other means designated by the bureau.*

39 *(k) (1) Any party aggrieved by the director's final decision and*
40 *order may seek judicial review by filing a petition for a writ of*

1 *mandate pursuant to Section 1085 of the Code of Civil Procedure*
2 *within 30 days of the issuance of the final decision and order. If*
3 *review is not sought within that period, the party's right to*
4 *review shall be deemed waived.*

5 *(2) The aggrieved party shall present the complete record of*
6 *the hearing or all portions of the record necessary for the court's*
7 *review of the director's final decision and order. The court shall*
8 *deny the petition for a writ of mandate if the record submitted by*
9 *the party is incomplete. The court shall not consider any matter*
10 *not contained in the record. The director's findings of fact and*
11 *legal conclusions supporting the final decision shall be*
12 *conclusive if supported by substantial evidence on the record*
13 *considered as a whole.*

14 *(3) The final order shall not be stayed or enjoined during*
15 *review except upon the court's grant of an order on a party's*
16 *application after due notice to the director and the Attorney*
17 *General. The order shall be granted only if the party establishes*
18 *the substantial likelihood that it will prevail on the merits and*
19 *posts a bond sufficient to protect fully the interests of the*
20 *students, the bureau, and the fund, from any loss.*

21 *(l) The bureau may adopt regulations establishing alternative*
22 *means of providing notice and an opportunity to be heard in*
23 *circumstances in which a full hearing is not required by law.*

24 *(m) For the purposes of this section, "good cause" shall*
25 *require sufficient ground or reason for the determination to be*
26 *made by the bureau.*

27 *9337. (a) If the bureau, through the director, denies an*
28 *institution's application for approval, grants a conditional*
29 *approval, or initiates a proceeding to suspend or revoke an*
30 *institution's approval to operate, the institution may request a*
31 *hearing pursuant to this section in lieu of the hearing procedure*
32 *designated by the bureau under Section 94965 or 94975.*

33 *(b) At the time the bureau provides notice to an institution of*
34 *its right to a hearing under Section 94965 or 94975 in*
35 *connection with the denial of an application for approval to*
36 *operate, the issuance of a conditional approval to operate, or a*
37 *proposed suspension or revocation of approval to operate, the*
38 *bureau also shall provide notice of the provisions of this section.*

39 *(c) Within 15 days after service of the notice described in*
40 *subdivision (b), the institution may request in writing a hearing*

1 under this section in lieu of the hearing procedure in Section
2 _____. The request shall acknowledge that, by electing to proceed
3 under this section, the institution is knowingly waiving all rights
4 under the hearing procedure otherwise provided by the bureau.

5 (d) After receiving the institution's request for a hearing under
6 this section, the bureau shall provide the institution or its
7 representative with copies of all the documents, testimony in
8 declaration form, and written arguments on which the bureau
9 relies to support its proposed administrative action.

10 (e) The institution shall have 30 days from the service of the
11 bureau's written evidence and arguments to submit all the
12 documents, testimony in declaration form, and written arguments
13 on which the institution relies in opposition to the bureau's
14 proposed administrative action.

15 (f) Neither the bureau nor the institution has any right to
16 discovery or to compel the production of documents or the
17 testimony of witnesses by subpoena.

18 (g) The director shall review all of the documents,
19 declarations, and arguments, and shall render a proposed
20 decision in writing, based solely on the written evidence and
21 arguments that set forth the proposed administrative action and
22 the factual and legal bases for it.

23 (h) The bureau shall serve the institution with a written
24 decision setting forth the administrative action taken and the
25 legal and factual bases for it. The decision shall become final
26 within 30 days unless another time is specified by the bureau.

27 (i) The bureau shall serve a certified copy of the complete
28 record, or any part thereof designated by an institution, within
29 30 days after receiving the institution's written request and
30 payment of the cost of preparing the requested record or portions
31 thereof. The complete record shall consist of all notices and
32 orders of the bureau, the documents, declarations, and written
33 argument submitted, a transcript of any oral argument, and the
34 final decision and order.

35 (j) Any party aggrieved by the bureau's final decision and
36 order may seek judicial review as provided in, and subject to, the
37 requirements of subdivision (k) of Section 94975.

38 (k) All documents required by this section to be served by the
39 bureau shall be served on the institution, its counsel, or
40 authorized representative by any means authorized for service

1 pursuant to Chapter 5 (commencing with Section 1010) of Title
2 14 of Part 2 of the Code of Civil Procedure.

3
4 Article 14. Fees and Costs
5

6 9350. The Private Postsecondary and Vocational Education
7 Administration Fund is continued in existence. All fees collected
8 pursuant to this section shall be credited to this fund along with
9 any interest on the money, for the administration of this chapter.
10 If the Legislature makes an appropriation for the support of the
11 bureau in the Budget Act of any fiscal year, the amount for the
12 support of the bureau expended from the fund during the fiscal
13 year shall not exceed the amount appropriated by the Budget Act,
14 unless that amount is modified in accordance with the Budget
15 Act.

16 9351. (a) The initial application fee shall be ____.

17 (b) The annual fee for programs and institutions shall be
18 ____.

19 (c) The renewal fee for a program or institutions shall be
20 ____.

21 (d) The fee for filing a change of ownership for an institution
22 shall be ____.

23 9352. Any institution more than 30 days delinquent in the
24 payment of any fee or order for the recovery of costs and
25 expenses under Section 94935, may be assessed a penalty fee by
26 the bureau.

27 9353. If the bureau determines after an investigation that an
28 institution has violated this chapter, the bureau may order the
29 institution to pay the costs and expenses incurred in connection
30 with the investigation and any civil or administrative proceeding
31 involving the violation that was investigated, including charges
32 made by the Attorney General for his or her services, and any
33 expenses incurred by a district attorney. Before any order for the
34 payment of costs and expenses is made under this section, the
35 bureau shall provide the institution with written notice, including
36 notice of the institution's right to request a hearing within 15
37 days of service of the notice. If a hearing is not timely requested,
38 the council may order payment. If a hearing is requested, the
39 council shall comply with Section 94965, 94975, or 94980.
40 Within 30 days after the effective date of the order, the bureau

1 may enforce the order as if it were a money judgment pursuant to
2 Title 9 (commencing with Section 680.10) of Part 2 of the Code
3 of Civil Procedure. Alternatively, the bureau may seek the costs
4 and expenses allowed under this section in a civil proceeding. An
5 institution shall not be required to pay the same costs and
6 expenses incurred in connection with the investigation and any
7 civil or administrative proceeding to more than one investigating
8 agency.

9 9354. (a) The bureau may propose modifications to the fee
10 schedule to the Governor and the Legislature to add or delete
11 categories of fees related to work performed by the bureau and
12 propose to the Governor and the Legislature the maximum
13 amount to be charged for each fee category added to the fee
14 schedule. The fee schedule shall provide adequate resources for
15 the bureau to implement this chapter effectively.

16 (b) The bureau shall annually present its proposed budget and
17 fee schedule, penalty fees assessed for delinquent payments
18 pursuant to regulations adopted by the bureau and additions and
19 deletions of fee categories to the Department of Finance and the
20 Joint Legislative Budget Committee for their review and
21 approval as part of the annual budget process. The bureau shall
22 annually publish a schedule of the current fees to be charged
23 pursuant to this section and shall make this schedule generally
24 available to the public.

25 26 Article 15. Severability

27
28 9390. The provisions of this chapter are severable. If any
29 provision of this chapter or its application is held invalid, that
30 invalidity shall not affect other provisions or applications that
31 can be given effect without the invalid provision or application.

32 33 Article 16. Termination

34
35 9399. This chapter shall become inoperative on _____, and,
36 as of _____ is repealed, unless a later enacted statute, that
37 becomes operative on or before _____, deletes or extends the
38 dates on which it becomes inoperative and is repealed.

39 SEC. 3. Chapter 7 (commencing with Section 94700) of Part
40 59 of the Education Code is repealed.

SEC. 4. *No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.*

SECTION 1. ~~Section 473.3 of the Business and Professions Code is amended to read:~~

~~473.3. (a) Prior to the termination, continuation, or reestablishment of any board or any of the board's functions, the Joint Committee on Boards, Commissions, and Consumer Protection shall, during the interim recess preceding the date upon which a board becomes inoperative, hold public hearings to receive testimony from the Director of Consumer Affairs, the board involved, and the public and regulated industry. In that hearing, each board shall have the burden of demonstrating a compelling public need for the continued existence of the board or regulatory program, and that its licensing function is the least restrictive regulation consistent with the public health, safety, and welfare.~~

~~(b) In addition to subdivision (a), in _____, the committee, in cooperation with the California Postsecondary Education Commission, shall hold a public hearing to receive testimony from the Director of Consumer Affairs, the Bureau for Private Postsecondary and Vocational Education, private postsecondary educational institutions regulated by the bureau, and students of those institutions. In those hearings, the bureau shall have the burden of demonstrating a compelling public need for the continued existence of the bureau and its regulatory program, and that its function is the least restrictive regulation consistent with the public health, safety, and welfare.~~

~~(c) The committee, in cooperation with the California Postsecondary Education Commission, shall evaluate and review the effectiveness and efficiency of the Bureau for Private Postsecondary and Vocational Education, based on factors and minimum standards of performance that are specified in Section 473.4. The committee shall report its findings and~~

1 recommendations as specified in Section 473.5. The bureau shall
2 prepare an analysis and submit a report to the committee as
3 specified in Section 473.2.

4 (d) In addition to subdivision (a), in 2003 and every four years
5 thereafter, the committee shall hold a public hearing to receive
6 testimony from the Director of Consumer Affairs and the Bureau
7 of Automotive Repair. In those hearings, the bureau shall have
8 the burden of demonstrating a compelling public need for the
9 continued existence of the bureau and its regulatory program, and
10 that its function is the least restrictive regulation consistent with
11 the public health, safety, and welfare.

12 (e) The committee shall evaluate and review the effectiveness
13 and efficiency of the Bureau of Automotive Repair based on
14 factors and minimum standards of performance that are specified
15 in Section 473.4. The committee shall report its findings and
16 recommendations as specified in Section 473.5. The bureau shall
17 prepare an analysis and submit a report to the committee as
18 specified in Section 473.2.

19 SEC. 2. Section 94999 of the Education Code is amended to
20 read:

21 94999. This chapter shall become inoperative on____, and, as
22 of____, is repealed, unless a later enacted statute, that becomes
23 operative on or before____, deletes or extends the dates on which
24 it becomes inoperative and is repealed.

25 SEC. 3. No reimbursement is required by this act pursuant to
26 Section 6 of Article XIII B of the California Constitution because
27 the only costs that may be incurred by a local agency or school
28 district will be incurred because this act creates a new crime or
29 infraction, eliminates a crime or infraction, or changes the
30 penalty for a crime or infraction, within the meaning of Section
31 17556 of the Government Code, or changes the definition of a
32 crime within the meaning of Section 6 of Article XIII B of the
33 California Constitution.